

CR 90-124

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

RECEIVED

DEC 4 1990
Y. De...
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 November 29, 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 29th day of November, 1990.



Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/ELC3240K

2-1-91

RECEIVED

ORDER OF THE DEPARTMENT OF REVENUE
RENUMBERING, AMENDING AND CREATING RULES

DEC 4 1990

Revisor of Statutes

The Wisconsin Department of Revenue adopts an order to renumber Tax Bureau 14.05(8)(c); to renumber and amend Tax 14.05(8)(b); to amend Tax 14.01(3)(a), 14.04(title), (2), (3)(a), (b), (c) and (d), (8)(b) and (9)(b) and 14.05(title), (3)(c) and (8)(a); and to create Tax 14.04(3)(e) and 14.05(8)(b), relating to the homestead credit.

Analysis by the Wisconsin Department of Revenue

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

Statutes Interpreted: ss. 71.52(7), 71.53(2)(e) and 71.54(2)(c), Stats.

SECTIONS 1 to 8. Tax 14.01, 14.04 and 14.05 are revised to update the code with respect to a law change allowing certain claimants who move from a homestead they own to tax-exempt housing to claim homestead credit based on the property taxes on the former homestead, and to revise the definition of "property taxes accrued" to reflect the statutory definition.

The "notes" at the end of ss. Tax 14.04 and 14.05 are expanded to explain the law prior to enactment of 1989 Wisconsin Act 198.

SECTION 1. Tax 14.01(3)(a) is amended to read:

Tax 14.01(3)(a) Sections 71.51 through 71.55, Stats., provide credit in the form of an income tax credit or a refund to qualifying persons who own or rent their Wisconsin homestead. A claimant may claim Wisconsin property taxes accrued or rent constituting property taxes accrued or both on the claimant's homestead or, in certain cases as described in s. Tax 14.04(3)(e), Wisconsin property taxes accrued on the claimant's former homestead, as a basis for calculating a credit against Wisconsin income tax otherwise due. If the credit exceeds the claimant's Wisconsin income tax otherwise due or if no income tax is due, the amount not offset against Wisconsin income tax and not applied against any liability under s. 71.55(1), Stats., is paid to the claimant.

SECTION 2. Tax 14.04(title), (2) and (3)(a), (b), (c) and (d) are amended to read:

Tax 14.04(title) PROPERTY TAXES ACCRUED. (ss. 71.52(3) and (7) and 71.54(2)(a) and (c)2, Stats.)

(2) DEFINITION. Under s. 71.52(7), Stats., "property taxes accrued" means real or personal property taxes or monthly parking permit fees under s. 66.058(3)(c), Stats., exclusive of special assessments, delinquent interest and charges for service, levied under ch. 70, Stats., on a homestead owned by a claimant under ch. 70, Stats., or a member of the claimant's household, less the tax credit for general property tax relief, if any, afforded in respect of the property by s. 79.10, Stats. With respect to sub. (3)(e), "property taxes accrued" means the property taxes accrued levied on the former homestead owned by the claimant.

(3)(a) Under s. 71.52(7), Stats., ~~property~~ Property taxes shall be levied on a homestead or former homestead to qualify as "property taxes accrued." Property taxes are levied when the tax roll is delivered to the local treasurer for collection, usually on or near December 15 of each year.

(b) The property taxes levied on a homestead or former homestead for the year to which a claim relates need not be paid prior to filing a homestead credit claim. The fact that the property taxes on a claimant's homestead or former homestead are delinquent for years prior to the year to which a claim relates does not disqualify the claimant.

(c) Under s. 71.52(7), Stats., ~~property~~ Property taxes accrued" includes personal property taxes assessed on a homestead or former homestead that is constructed on leased land or assessed on a mobile home owned by the claimant. "Property taxes accrued" also includes mobile home parking permit fees assessed under s. 66.058(3)(c), Stats., for a mobile home owned by the claimant.

(d) Under s. 71.52(3), Stats., a buyer of a homestead or former homestead in possession ~~of the homestead~~ under a land contract shall be entitled to claim the property taxes accrued on the homestead or former homestead.

SECTION 3. Tax 14.04(3)(e) is created to read:

Tax 14.04(3)(e) Under s. 71.54(2)(c)2, Stats., if a claimant has moved from a homestead owned by the claimant to housing that is exempt from taxation under ch. 70, Stats., other than housing for which payments in lieu of taxes are made under s. 66.40(22), Stats., and other than a correctional or detention facility, a claim or claims may be allowed based on the property taxes accrued on that former homestead, provided the claimant has attempted to sell the former homestead. The property taxes accrued on the former homestead may be claimed for the period of time ending on the earliest date any of the events in subds. 1 to 4 occurs. If the earliest date any of those events occurs is in the calendar year following the year in which the claimant moves to the tax-exempt housing, the property taxes accrued shall be prorated from the date of the move to December 31 on a claim for the calendar year in which the move occurs, and from January 1 to the earliest date any of the events in subds. 1 to 4 occurs on a claim for the succeeding calendar year. The events after which the property taxes accrued on the former homestead may no longer be claimed are as follows:

1. The claimant ceases to own the former homestead.
2. The claimant begins to rent out or lease out the former homestead.
3. The claimant ceases to reside in the tax-exempt housing.
4. Twelve months of time elapses from the date of moving to the tax-exempt housing.

Note: Example. A claimant moves from the homestead she owns to a tax-exempt nursing home on July 1, 1990. She has listed her former homestead for sale with a realtor. While continuing to reside in the nursing home, she sells the former homestead; the date on the closing agreement is May 31, 1991. The property taxes accrued on the former homestead are \$1,200 for 1990, and the prorated property taxes accrued on the closing agreement are \$500.

The claimant may file a 1990 homestead credit claim, based on the 1990 property taxes accrued of \$1,200 for the entire year. She may also file a 1991 claim, based on property taxes accrued of \$500, prorated from January 1, 1991, to the date of the sale.

SECTION 4. Tax 14.04(8)(b) and (9)(b) are amended to read:

Tax 14.04(8)(b) If a qualified claimant residing in a co-owned homestead pays the homestead property taxes for a co-owner not residing in the homestead and not claiming property taxes accrued under s. 71.54(2)(c)2, Stats., and sub. (3)(e), the claimant shall be entitled to both the claimant's appropriate share of "property taxes accrued" as described in par. (a) and "gross rent" for the homestead property taxes paid on behalf of each absent owner, as provided in s. Tax 14.05(3)(c). On the other hand, if a qualified claimant residing in a co-owned homestead pays the homestead property taxes for a co-owner who also resides in the homestead but who is not a member of the payor's household, or who is claiming property taxes accrued under s. 71.54(2)(c)2, Stats., and sub. (3)(e), each co-owner may file a claim based upon that part of the property taxes accrued that reflects the ownership percentage of each claimant and his or her household.

(9)(b) ~~If~~ Except as provided under s. 71.54(2)(c)2, Stats., and sub. (3)(e), if a seller moved from the homestead or established a homestead elsewhere before the closing date shown on a closing agreement and the property taxes are prorated ~~thereon~~ on the agreement to the closing date, the property taxes shall be further prorated for homestead credit purposes to consider in the year of sale only the property taxes accrued during the period the seller maintained a homestead on the property.

Note to Revisor: Part 4) should be added to the "Note" at the end of s. Tax 14.04, as follows:

4) Section 71.54(2)(c), Stats., was created by 1989 Wisconsin Act 198, effective for 1990 claims filed in calendar year 1991. Prior to enactment of 1989 Wisconsin Act 198, for 1989 and prior year claims filed in 1990 and prior calendar years, the treatment of "property taxes accrued" for a claimant moving from a former homestead to tax-exempt housing, as described in s. Tax 14.04(3)(e), did not apply.

SECTION 5. Tax 14.05(title), (3)(c) and (8)(a) are amended to read:

Tax 14.05(title) GROSS RENT AND RENT CONSTITUTING PROPERTY TAXES ACCRUED.
(ss. 71.52(2) and (8), 71.53(2)(e) and (f), 71.54(2)(a) and (c) and 71.55(2)
and (8), Stats.)

(3)(c) Property taxes accrued on a claimant's homestead which are paid by the claimant on behalf of an owner who does not reside in the homestead and who does not claim property taxes accrued under s. 71.54(2)(c)2, Stats., shall be considered gross rent.

(8)(a) ~~Section~~ Under s. 71.53(2)(e), Stats., provides that no claim for homestead credit may be allowed if:--"The a claimant resided for the entire calendar year to which the claim relates in housing which was exempt from taxation under ch. 70, except Stats., other than housing for which payments in lieu of taxes are made under s. 66.40(22),--if the claimant lived in housing which was subject to taxation under ch. 70 for any part of the calendar year to which the claim relates, the property taxes accrued or rent constituting property taxes accrued, or both, shall be based on the period during which such housing constituted the claimant's homestead," Stats., except as provided under s. 71.54 (2)(c)2, Stats. Under s. 71.54(2)(c)2, Stats., if a claimant moves to tax-exempt housing, a claim for homestead credit may be allowed based on property taxes accrued on the claimant's former homestead under certain conditions. Those conditions are explained in s. Tax 14.04(3)(e).

SECTION 6. Tax 14.05(8)(b) is renumbered Tax 14.05(8)(c) and amended to read:

Tax 14.05(8)(c) Payments required to be made in lieu of taxes under s. 66.40(22), Stats., as provided in par. (a), are made by most facilities that are licensed with the state of Wisconsin as "housing authorities." Rent paid to those housing authorities may be used to determine gross rent and rent constituting property taxes accrued. However, other types of exempted housing

which make payments in lieu of taxes do not make the payments under s. 66.40(22), Stats., and therefore rent paid to those types of exempted housing may not be used to determine gross rent and rent constituting property taxes accrued.

SECTION 7. Tax 14.05(8)(b) is created to read:

Tax 14.05(8)(b) Under s. 71.54(2)(c)1, Stats., if a claimant resided for part of the calendar year to which a homestead credit relates, in a homestead which was either subject to taxation under ch. 70 or exempt from taxation under ch. 70 but for which payment in lieu of taxes were made under s. 66.40(22), the property taxes accrued or rent constituting property taxes accrued or both on that homestead are allowed for that part of the year.

Note to Revisor: The example at the end of Tax 14.05(8)(a) should be moved to the end of new Tax 14.05(8)(b).

SECTION 8. Tax 14.05(8)(c) is renumbered Tax 14.05(8)(d).

Note to Revisor: Part 3) should be added to the "Note" at the end of s. Tax 14.05, as follows:

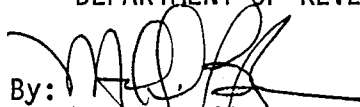
3) Section 71.53(2)(e), Stats., was amended and s. 71.54(2)(c), Stats., was created by 1989 Wisconsin Act 198, effective for 1990 claims filed in calendar year 1991. Prior to enactment of 1989 Wisconsin Act 198, for 1989 and prior year claims filed in 1990 and prior calendar years, the reference to s. 71.54(2)(c)2, Stats., in sub. (8)(a) did not apply, and the provision of s. 71.54(2)(c)1, Stats., in sub. (8)(b) was part of s. 71.53(2)(e), Stats.

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: November 29, 1990

DEPARTMENT OF REVENUE
By: 
Mark D. Bugher
Secretary of Revenue

RECEIVED

DEC 4 1990

CKLEG/M021310D

Revisor of Statutes
Bureau

FISCAL ESTIMATE

DOA-2048 (R 10/88)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

Homestead Credit Rule Changes

Fiscal Effect

State: No State Fiscal Effect

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

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

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 revisions to Tax 14.01, 14.04 and 14.05 relating to the Homestead Credit update the administrative code to accommodate 1989 Wisconsin Act 198. The rule changes have no fiscal effect.

RECEIVED

DEC 4 1990

Revisor of Statutes
Bureau

Long-Range Fiscal Implications

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

Authorized Signature/Telephone No. 266-2700

Glenn M. Deane

Date

4/8/90

FISCAL ESTIMATE WORKSHEET

1989 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R 10/88) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Tax 14	Amendment No.
---	---------------

Subject
 Homestead Credit Rule Changes

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:	
		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			NET Impact on Local Funds		
\$ (+) or None (-)			\$ (+) or None (-)		

Agency/Prepared by: (Name & Phone No.)
 Department of Revenue

Authorized Signature/Telephone No. 266-2700

Date



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

November 30, 1990

RECEIVED

DEC 4 1990

Revisor of Statutes
Bureau

Gary L. Poulson
Assistant Revisor
2nd Floor
119 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703

Re: Clearinghouse Rule 90-124

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. 227.20(1), Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/ELC3240J

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 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

November 30, 1990

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

RECEIVED

DEC 4 1990

Revisor of Statutes
Bureau

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-124.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Bugher', written over a horizontal line.

Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/ELC32401

Enclosure

cc: Revisor of Statutes