

1999 DRAFTING REQUEST

Bill

Received: 02/02/2000

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Jim**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income
Tax Credits - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Restore school property tax rent credit; allow claims in one year for 2 years of prop. taxes paid

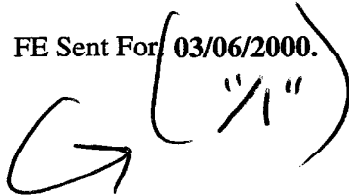
Instructions:

Companion to AB 42, but must also restore the SPTRC at former levels (10% of first \$2,000 of prop. taxes, etc.

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|-----------------------|-----------------------|----------------|----------------------------|----------------------------|-----------------|
| /? | shoveme 02/28/2000 | jgeller 03/01/2000 | | _____ | | | State |
| /1 | | | martykr 03/02/2000 | _____ | lrb_docadmin 03/02/2000 | lrb_docadmin 03/06/2000 | |

FE Sent For (03/06/2000.)



<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1? | shoveme | 1 3/1 ja | 2/2 | HH 3/2 2/2 | | | |

11NES 2/28/00

FE Sent For:

<END>

-4469/1
LRB-05271
MES
jg

D. Note

500P

SENATE

1999 ASSEMBLY BILL 421

not be claimed for taxable years beginning after December 31, 1998.
This bill restores the credit. Under this bill, the credit may (NOTP)

for taxable years beginning after December 31, 1999.

January 19, 1999 - Introduced by Representatives ZIEGELBAUER, HUBER, PLALE, ALBERS, BLACK, GROTHMAN, JESKEWITZ, LA FAVE, F. LASEE, LASSA, M. LEHMAN, MUSSER, REYNOLDS, RYBA, STASKUNAS and STONE, cosponsored by Senators DECKER, GEORGE, GROBSCHMIDT, A. LASEE and ROESSLER. Referred to Committee on Ways and Means.

repeal

- 1 AN ACT to renumber and amend 71.07 (9) (b) 1.; to amend 71.07 (9) (a) 3. and
- 2 71.07 (9) (b) 2.; and to create 71.07 (9) (b) 1. a. and b. of the statutes; relating
- 3 to: restoring the school property tax rent credit and
- 4 authorizing claims under the school property tax rent credit for property taxes paid in the year before the year in which they are due.

Analysis by the Legislative Reference Bureau

Under current law, the school property tax rent credit may be claimed by an individual for property taxes paid on the claimant's principal dwelling, or rent constituting property taxes paid on the claimant's principal dwelling, during the taxable year for which the credit is claimed. For taxable years other than 1998, the credit, which may be claimed up to the amount of the claimant's tax liability, is 10% of the first \$2,000 of property taxes, or rent constituting property taxes, paid or 10% of the first \$1,000 of property taxes, or rent constituting property taxes, paid by a married person filing separately. For taxable year 1998, however, the credit, which may be claimed up to the amount of the claimant's tax liability, is 14% of the first \$2,500 of property taxes, or rent constituting property taxes, paid or 14% of the first \$1,250 of property taxes, or rent constituting property taxes, paid by a married person filing separately.

beginning after December 31, 1998 and for taxable years

Under this bill, the credit may also be claimed for property taxes paid during the year before the taxable year in which such taxes are due, if those payments in the previous year were not used in calculating a credit in a previous year.

ASSEMBLY BILL 42

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (9) (a) 3. of the statutes is amended to read:

2 71.07 (9) (a) 3. “Property taxes” means real and personal property taxes,
3 exclusive of special assessments, delinquent interest and charges for service, paid by
4 a claimant on the claimant’s principal dwelling during the taxable year for which
5 credit under this subsection is claimed and the real and personal property taxes,
6 exclusive of special assessments, delinquent interest and charges for service paid by
7 a claimant on the claimant’s principal dwelling during the year before the taxable
8 year in which such taxes are due if those payments in the previous year were not used
9 in calculating the credit under this subsection, less any property taxes paid which
10 are properly includable as a trade or business expense under section 162 of the
11 internal revenue code. If the principal dwelling on which the taxes were paid is
12 owned by 2 or more persons or entities as joint tenants or tenants in common or is
13 owned by spouses as marital property, “property taxes” is that part of property taxes
14 paid that reflects the ownership percentage of the claimant. If the principal dwelling
15 is sold during the taxable year the “property taxes” for the seller and buyer shall be
16 the amount of the tax prorated to each in the closing agreement pertaining to the sale
17 or, if not so provided for in the closing agreement, the tax shall be prorated between
18 the seller and buyer in proportion to months of their respective ownership. “Property
19 taxes” includes monthly parking permit fees in respect to a principal dwelling
20 collected under s. 66.058 (3) (c).

as affected by 1999 Wisconsin Act 19

1 SECTION 2. 71.07 (9) (b) 1. of the statutes is renumbered 71.07 (9) (b) 1. (intro.)
2 and amended to read:

3 71.07 (9) (b) 1. (intro.) Subject to the limitations under this subsection and
4 except as provided in subd. 2, ^{and 4. ← plain} a claimant may claim as a credit against, but not to
5 exceed the amount of, ^{plain ↑} taxes under s. 71.02, 10% of the first \$2,000 of property taxes
6 or rent constituting property taxes, or 10% of the first \$1,000 of property taxes or rent
7 constituting property taxes of a married person filing separately, except as follows:

8 SECTION 3. 71.07 (9) (b) 1. a. and b. of the statutes are created to read:

9 71.07 (9) (b) 1. a. If a claimant's property taxes is for 2 years, does not include
10 a taxable year that begins after December 31, 1997, and before January 1, 1999, and
11 is paid in one year, 10% of the first \$2,000 of property taxes for each taxable year or
12 10% of the first \$1,000 of property taxes for each year of a married person filing
13 separately.

14 b. If a claimant's property taxes is for 2 years, includes a taxable year that
15 begins after December 31, 1997, and before January 1, 1999, and is paid in one year,
16 14% of the first \$2,500 of property taxes for the taxable year that begins after
17 December 31, 1997, and before January 1, 1999, and 10% of the first \$2,000 of
18 property taxes for the other taxable year or 14% of the first \$1,250 of property taxes
19 for the taxable year that begins after December 31, 1997, and before January 1, 1999,
20 and 10% of the first \$1,000 of property taxes for the other taxable year of a married
21 person filing separately.

22 SECTION 4. 71.07 (9) (b) 2. of the statutes is amended to read:

23 71.07 (9) (b) 2. Subject to the limitations under this subsection, a claimant may
24 claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, the
25 amounts specified in the proposal under 1997 Wisconsin Act 237, section 9256 (2c).

ASSEMBLY BILL 42

SECTION 4

1 except that if a claimant's property taxes is for 2 taxable years, including the taxable
 2 year to which this subdivision applies, and is paid in one year, the claimant may
 3 claim the amount calculated under subd. 1. b.

Handwritten notes: A circled 'FNS' with a checkmark and '4-3' written below it.

SECTION 5. Initial applicability.

5 (1) This act first applies to taxable years beginning on January 1 of the year
 6 in which this subsection takes effect, except that if this subsection takes effect after
 7 July 31, this act first applies to taxable years beginning on January 1 of the year
 8 following the year in which this subsection takes effect.

(END)

D-note

This bill is based on AB 42, but it is not identical. This bill also restores the school property tax rent credit.

MES

BILL

INS. 4-3

1 ~~(d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L.~~
 2 ~~105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36 and P.L. 106-170. The Internal~~
 3 ~~Revenue Code applies for Wisconsin purposes at the same time as for federal~~
 4 ~~purposes. Amendments to the federal Internal Revenue Code enacted after~~
 5 ~~December 31, 1999, do not apply to this paragraph with respect to taxable years~~
 6 ~~beginning after December 31, 1999.~~

7 SECTION 6. 71.01 (7r) of the statutes, as affected by 1999 Wisconsin Act 9, is
 8 amended to read:

9 71.01 (7r) Notwithstanding sub. (6), for purposes of computing amortization
 10 or depreciation, "Internal Revenue Code" means either the federal Internal Revenue
 11 Code as amended to December 31, ~~1998~~ 1999, or the federal Internal Revenue Code
 12 in effect for the taxable year for which the return is filed, except that property that,
 13 under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated for taxable year
 14 1986 under the Internal Revenue Code as amended to December 31, 1980, shall
 15 continue to be depreciated under the Internal Revenue Code as amended to
 16 December 31, 1980.

17 SECTION ~~7.~~ 71.07 (9) (b) 4. ^x of the statutes, as created by 1999 Wisconsin Act 10,
 18 is amended to read:

19 71.07 (9) (b) 4. For taxable years beginning after December 31, 1998, and
 20 before January 1, 2000, subject to the limitations under this subsection a claimant
 21 may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02,
 22 8.4% of the first \$0 of property taxes or rent constituting property taxes, or 8.4% of
 23 the first \$0 of property taxes or rent constituting property taxes of a married person
 24 filing separately.

end of ins 4-3

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4469/1dn
MES;jlg:km

March 2, 2000

This bill is based on AB-42, but it is not identical. This bill also restores the school property tax rent credit.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 03/02/2000

To: Senator Lazich

Relating to LRB drafting number: LRB-4469

Topic

Restore school property tax rent credit; allow claims in one year for 2 years of prop. taxes paid

Subject(s)

Tax - individual income, Tax Credits - miscellaneous

1. **JACKET** the draft for introduction Senator Lazich

in the Senate or the Assembly (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Yes

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney
Telephone: (608) 266-0129



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701 2037

LEGAL SECTION: (608) 266-2661
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

April 7, 2000

MEMORANDUM



To: Senator Lazich

From: Marc E. Shovers, Senior Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **1999 AB 459** (LRB 4469/1)

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

In point number one, the department of revenue (DOR) claims that there seems to be "conflicting calculations" of the school property tax rent credit (SPTRC). This is not the case. The first cite referred to by DOR, s. 71.07 (9) (a) 3., is merely a definition; there is no calculation that could take place under that statute. In addition, even if that statute did provide for a calculation, I don't think that DOR's example works. The second cite referred to by DOR, s. 71.07 (9) (b) 1., is a calculation and DOR's analysis of how that subdivision operates is correct. Based on the instructions I received, I believe that the calculations contained in the bill do reflect your intent.

DOR's second point seems to be accurate. The reason the bill contains the provisions described in s. 71.07 (9) (b) 1. b. is because you asked that the bill be based on 1999 AB 42, which was introduced in January 1999. If the bill had become law in 1999, s. 71.07 (9) (b) 1. b. as drafted would have been necessary and appropriate. If the bill is taken up in May or redrafted next session, you may wish to have the bill redrafted to avoid references to 1998.

Regarding DOR's third point, the use of "calendar year" in connection with property taxes is correct.

Given the legislature's and governor's actions this session regarding the SPTRC, DOR's fourth point is correct; the SPTRC may not be claimed for taxable years beginning after December 31, 1998. This fact is stated in the bill's analysis.

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

MEMORANDUM

April 3, 2000

TO: Marc Shovers
Legislative Reference Bureau

FROM: Yeang-Eng Braun *YEB*
Department of Revenue

SUBJECT: Technical Memorandum on LRB 4469/1 - Restoring the School Property Tax/Rent Credit for Tax Year 2000 and Thereafter and Allowing Claims for Property Taxes Paid in the Previous Year

The Department would like to make the following comments regarding LRB 4469/1:

1. Under this bill, sections 71.07 (9)(a)3 and 71.07 (9)(b)1 appear to provide conflicting calculations of property taxes due in two consecutive years. For example, consider a person paying in tax year 2000 \$2,300 of property taxes due in calendar year 2000 and \$2,400 of property taxes due in calendar year 2001.

Section 71.07 (9)(a)3 permits the taxpayer to claim a credit in tax year 2001 for the 2001 taxes paid in tax year 2000. Thus, the taxpayer would claim a \$200 credit in tax year 2000 and a \$200 credit in tax year 2001.

However, Section 71.07 (9)(b)1 appears to allow the taxpayer to claim a \$200 credit for the 2000 property taxes and a \$200 credit for the 2001 taxes both in tax year 2000, thereby allowing a \$400 credit in tax year 2000.

The Department believes that the former is the intent, and the fiscal estimate is based on this assumption. The sponsor may wish to specify if the credit may be claimed in one tax year for two years of property taxes paid in that one tax year or if the credit may be claimed in two tax years for two years of property taxes paid in one tax year.

2. The sponsor should be aware that the reference to 1998 taxes in Section 71.07 (9)(b)1.b appears to benefit only taxpayers who are delinquent in paying those 1998 taxes, since they would not be eligible for credit under this bill unless paid in 2000 or later.
3. Property taxes are assessed on a calendar year basis. Thus, it is inappropriate to refer to property taxes due in a "taxable year."

4. It is the Department's belief that property taxes for calendar year 2000 paid in 1999 would not be eligible for a credit in tax year 2000 because of sec. 71.07(9)(b)4, Wis. Stats., which provides a 0% credit for taxes paid in that year.
5. The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

| | <u>Chapter 20</u> | <u>Amount</u> | <u>FTE</u> |
|----------|-------------------|---------------|------------|
| one-time | s. 20.566 (1) (a) | \$76,000 | |
| annual | s. 20.566 (1) (a) | \$33,200 | |

If you have any questions regarding this technical memorandum, please contact Meredith Krejny at 261-8984; for administrative costs contact Jackie Wipperfurth at 266-9513.

YEB:MLK:dls
t:\fsn99-00\mk\lrb44691.tec

YEB 4/3/00