

1999 DRAFTING REQUEST

Bill

Received: 10/13/98

Received By: **shoveme**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget 6-1805**

By/Representing: **Gates-Hendrix**

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

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - individual income**

Extra Copies:

Topic:

DOA:.....Gates-Hendrix - Clarify proration of tuition expense deduction

Instructions:

See Attached. Clarify that nonresidents and part-year residents must prorate the \$3,000 subtract modification and hat the \$3K is also ltd to the total wages, salary, tips, etc taxable by WI

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>
/P1	shoveme 10/13/98	gilfokm 10/14/98	jfrantze 10/14/98	_____	lrb_docadmin 10/14/98		
/P2	shoveme 01/18/99	gilfokm 01/18/99	lpaasch 01/19/99	_____	lrb_docadmin 01/19/99		

FE Sent For:

<END>

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/P1	shoveme 10/13/98	gilfokm 10/14/98	jfrantze 10/14/98	_____	lrb_docadmin 10/14/98		

1P2MES 1/16/99 1-18-99
FE Sent For: *mg*

1p1-19
~~1p1-19~~
cmh

<END>

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1?	shoveme	10-10-14 KMG	10/14	10/14			
1 P1 NES 10/13/98							

FE Sent For:

<END>

Wisconsin Department of Revenue
IS&E Division
August 18, 1998

Clarify proration of tuition
expense deduction

TITLE: Clarify Proration of Tuition Expense Deduction

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Section 71.05(6)(b)28, as created by 1997 Wisconsin Act 237, provides a subtraction from federal adjusted gross income for the amount paid (up to \$3,000 per student) for tuition to attend a university, college, technical college, or other approved school. The subtraction is subject to a phase-out at certain income levels.

Nonresidents and part-year residents are required to prorate the subtraction based on a fraction the numerator of which is the individual's wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by Wisconsin and the denominator of which is the individual's total wages, salary, tips, unearned income and net earnings from a trade or business. The subtraction is further limited to the total wages, salary, tips, unearned income, and net earnings from a trade or business taxable by Wisconsin.

The problem is that the statutes can be interpreted to provide for the proration and limitation only when the taxpayer is subject to the phase-out. Because sec. 71.05(6)(b)28.e does not reference subd. 28.a, the statutes do not appear to require the proration and limitation when the taxpayer is allowed the full \$3,000 subtraction. The instructions for the 1998 Form 1NPR were written to provide that all nonresidents and part-year residents must prorate the subtraction and limit it to income taxable by Wisconsin. This interpretation appears to reflect the intent of the legislature.

RECOMMENDATION FOR ACTION:

Amend sec. 71.05(6)(b)28.e to provide that nonresidents and part-year residents must also prorate the \$3,000 subtraction and that the \$3,000 is also limited to the total wages, salary, tips, unearned income and net earnings from a trade or business taxable by Wisconsin.

FISCAL/ADMINISTRATIVE IMPACT:

No impact as this would reflect the department's current treatment.

DRAFTING INSTRUCTIONS:

Amend sec. 71.05(6)(b)28.e. to provide that "For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 28.a. through e. by a fraction".

EFFECTIVE DATE:

Day after publication.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-05737
MES...

PI
Kings
RMA

DOA:.....Gates-Hendrix - Clarify proration of tuition expense deduction

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

D-Note

SOON

Changes made on elec. copy

1 AN ACT ^{Don't Gen. Cat.} relating to ^{clarifying the limitations on and} the proration of the tuition expenses deduction ~~for~~
2 ~~nonresidents and part-year residents of this state.~~

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Current law provides a subtraction from federal adjusted gross income for an amount paid, up to \$3,000 per year per student, for tuition to attend a university, college, technical college or other approved school that is located in this state or that is subject to the Minnesota-Wisconsin reciprocity agreement. The subtraction is phased out at certain income levels. Also under current law, nonresidents and part-year residents of this state may claim a prorated amount of the subtraction based on a fraction, the numerator of which is the individual's wages, income and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, income and net earnings from a trade or business. The subtraction is further limited to the total wages, income and net earnings from a trade or business taxable by this state.

This bill clarifies that the proration applicable to nonresidents and part-year residents of this state applies at all times and not just when the taxpayer is subject to the phaseout provisions and also clarifies that the limitation of the credit to a

claimant's total wages, income and net earnings from a trade or business taxable by this state applies to all taxpayers.

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

1 **SECTION 1.** 71.05 (6) (b) 28. e. of the statutes is amended to read:

2 71.05 (6) (b) 28. e. For an individual who is a nonresident or part-year resident
3 of this state, multiply the amount calculated under subd. 28. a., b., c. or d. by a
4 fraction the numerator of which is the individual's wages, salary, tips, unearned
5 income and net earnings from a trade or business that are taxable by this state and
6 the denominator of which is the individual's total wages, salary, tips, unearned
7 income and net earnings from a trade or business. In this subd. 28. e., for married
8 persons filing separately "wages, salary, tips, unearned income and net earnings
9 from a trade or business" means the separate wages, salary, tips, unearned income
10 and net earnings from a trade or business of each spouse, and for married persons
11 filing jointly "wages, salary, tips, unearned income and net earnings from a trade or
12 business" means the total wages, salary, tips, unearned income and net earnings
13 from a trade or business of both spouses.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237. History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237.

14 **SECTION 2.** 71.05 (6) (b) 28. f. of the statutes is amended to read:

15 71.05 (6) (b) 28. f. Reduce the amount calculated under subd. 28. a., b., c., d. or
16 e. to the individual's aggregate wages, salary, tips, unearned income and net
17 earnings from a trade or business that are taxable by this state.

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237. History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237.

18 **SECTION 9343. Initial applicability; revenue.**

3 - Changes made on elec. copy (CS)

limitations and proration

1 (1) TUITION EXPENSE DEDUCTION, ~~NONRESIDENTS AND PART-YEAR RESIDENTS~~. The
2 treatment of section 71.05 (6) (b) 28. e. and f. of the statutes first applies to taxable
3 years beginning on January 1 of the year in which this subsection takes effect, except
4 that if this subsection takes effect after July 31, the treatment of section 71.05 (6) (b)
5 28. e. and f. of the statutes first applies to taxable years beginning on January 1 of
6 the year following the year in which this subsection takes effect.

7 (END)

D-note →

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

LRB-0573/7dn
MES.....
King

DOR's drafting instructions did not indicate that they wanted to amend s. 71.05 (6) (b) 28. f., but their description of current law and ^{the} problem indicates that that subdivision paragraph should be amended as shown in this draft. Does the bill meet your intent? ^e

Marc E. Shovers
Senior Legislative Attorney
266-0129

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

LRB-0573/P1dn
MES:kmg:jf

October 14, 1998

DOR's drafting instructions did not indicate that they wanted to amend s. 71.05 (6) (b) 28. f., but their description of current law and the problem indicates that that subdivision paragraph should be amended as shown in this draft. Does the bill meet your intent?

Marc E. Shovers
Senior Legislative Attorney
266-0129

**Department of Revenue Comments
LRB Draft 0573/P1
Clarify Proration Provision Relating to Tuition Expense Deduction**

The following changes are needed to the draft:

1. The change to sec. 71.05(6)(b)28.f. is actually a substantive change. Adding the references to subparagraphs a., b., c., and d. results in the limitation imposed by sec. 71.05(6)(b)28.f. being extended to individuals who are full-year residents of Wisconsin. Previously the limitation applied only to nonresidents and part-year residents of Wisconsin.

Because the change to subparagraph f is substantive, the analysis portion of the draft (specifically, the second paragraph) should be revised to reflect this fact.

2. Remove the reference to sec. 71.05(6)(b)28.e. in the Initial Applicability provision. Because the change being made to subparagraph e is regarded as a clarification, it would be better if the change became effective the day after publication.

Prepared by: Tom Reid
Staff Specialist
IS&E Division
January 12, 1999
(608) 266-8474

Approved by:

Legal	<u><i>J. H. Curran</i></u>	Date	<u>1-14-99</u>
Research and Analysis	<u><i>Dennis Collier</i></u>	Date	<u>1/14/99</u>
IS&E	<u><i>Tom Reid</i></u>	Date	<u>1/12/99</u>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0573/P1
MES:kmg

RMNR

DOA:.....Gates-Hendrix - Clarify proration of tuition expense deduction
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

~~T2K wld not let me retrieve from hold, so I could not forward the draft or run RM - same situation for -0345 -0574-0575~~

do not go

- 1 AN ACT ...; relating to: clarifying the limitations on and the proration of the
- 2 tuition expenses deduction.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Current law provides a subtraction from federal adjusted gross income for an amount paid, up to \$3,000 per year per student, for tuition to attend a university, college, technical college or other approved school that is located in this state or that is subject to the Minnesota-Wisconsin reciprocity agreement. The subtraction is phased out at certain income levels. Also under current law, nonresidents and part-year residents of this state may claim a prorated amount of the subtraction based on a fraction, the numerator of which is the individual's wages, income and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, income and net earnings from a trade or business. The subtraction is further limited to the total wages, income and net earnings from a trade or business taxable by this state.

This bill clarifies that the proration applicable to nonresidents and part-year residents of this state applies at all times and not just when the taxpayer is subject to the phaseout provisions and also clarifies that the limitation of the credit to a

changes current law such

For a nonresident or part-year resident of this state,

claimant's total wages, income and net earnings from a trade or business taxable by this state applies to all taxpayers.

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

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6 the denominator of which is the individual's total wages, salary, tips, unearned
7 income and net earnings from a trade or business. In this subd. 28. e., for married
8 persons filing separately "wages, salary, tips, unearned income and net earnings
9 from a trade or business" means the separate wages, salary, tips, unearned income
10 and net earnings from a trade or business of each spouse, and for married persons
11 filing jointly "wages, salary, tips, unearned income and net earnings from a trade or
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18 **SECTION 9343. Initial applicability; revenue.**

19 (1) TUITION EXPENSE DEDUCTION, LIMITATIONS AND PRORATION. The treatment of
20 section 71.05 (6) (b) 28. e. and f. of the statutes first applies to taxable years beginning
21 on January 1 of the year in which this subsection takes effect, except that if this

1 subsection takes effect after July 31 the treatment of section 71.05 (6) (b) 28. e. and
2 f. of the statutes first applies to taxable years beginning on January 1 of the year
3 following the year in which this subsection takes effect.

4 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0573/P2

MES:kmg:lp

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FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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2 statutes first applies to taxable years beginning on January 1 of the year following
3 the year in which this subsection takes effect.

4

(END)

NOTE TO DRAFTING FILE for LRB-0573:

Per the drafter, this draft has been redrafted to a “/1” as no problems remain in the draft that require resolution before introduction of the budget bill. There are no changes between the “/PX” and the “/1.”

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1 subsection takes effect after July 31 the treatment of section 71.05 (6) (b) 28. f. of the
2 statutes first applies to taxable years beginning on January 1 of the year following
3 the year in which this subsection takes effect.

4 (END)