

# History of Senate Bill 276

## SENATE BILL 276

An Act to create 71.05 (1) (d) of the statutes; relating to: exempting from taxation a tax rebate for individuals. (FE)

1999

- 11-02. S. Introduced by Senators Farrow, Ellis, Rude and Drzewiecki.
- 11-02. S. Read first time and referred to joint survey committee on Tax Exemptions ..... 312
- 11-02. S. Senator Roessler added as a coauthor ..... 316
- 11-05. S. Fiscal estimate received.

### Text of Senate Bill 276

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**FISCAL ESTIMATE FORM**

**1999 Session**

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB # - 3860/1

INTRODUCTION # SB 276

Admin. Rule #

**Subject**

Individual Income Tax Exemption for Sales Tax Rebate

**Fiscal Effect**

State:  No State Fiscal Effect

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

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

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

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 \_\_\_\_\_  
 School Districts  WTCS Districts

**Fund Sources Affected**

- GPR  FED  PRO  PRS  SEG  SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate:**

This bill would exempt from the individual income tax the sales tax rebate that would be created by LRB 3861/1. The proposed exemption would have a fiscal effect only to the extent that the rebate is considered income for federal tax purposes. However, because the rebate returns to taxpayers a portion of the sales taxes they previously paid, the rebate should not be considered income subject to tax. Therefore, this bill has no fiscal effect.

**Long-Range Fiscal Implications:**

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

Wisconsin Department of Revenue

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*Yeang-Eng Braun*

Date

11/24/99

# **STATE OF WISCONSIN**

## **REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**

### **1999 SENATE BILL 276**

[Introduced by Senators Farrow, Ellis, Rude and Drzewiecki.]

#### **General Nature of Proposal**

1999 Wisconsin Act 10 provides a one-time sales tax rebate for individuals in Wisconsin and certain other individuals. No rebate may be made after December 31, 2000. Under current law, for purposes of determining Wisconsin income tax liability, Wisconsin uses federal adjusted gross income, and modifies it by adding and subtracting various amounts, to establish an individual taxpayer's Wisconsin adjusted gross income. Generally, because state sales taxes are not deductible for purposes of federal income taxes and because the rebate returns to taxpayers a portion of the sales taxes they previously paid, a rebate of state sales taxes should not be considered taxable at the federal level and thus would not be includable in federal adjusted gross income. Consequently, a state sales tax rebate would not be included in Wisconsin adjusted gross income.

The bill specifically exempts from Wisconsin income taxation the one-time sales tax rebate for individuals provided in Act 10.

#### **Legality Involved**

There are no questions of legality involved.

#### **Fiscal Effect Upon the State and Its Subdivisions**

The Department of Revenue estimates the fiscal effect of the bill as follows:

This bill would exempt from the individual income tax the sales tax rebate that would be created by LRB 3861/1 (1999 Senate Bill 276). The proposed exemption would have a fiscal effect only to the extent that the rebate is considered income for federal tax purposes. However, because the rebate returns to taxpayers a portion of the sales taxes they previously paid, the rebate should not be considered income subject to tax. Therefore, this bill has no fiscal effect.

#### **Public Policy Involved**

This bill is good public policy.



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## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

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DATE: January 5, 2000

TO: REPRESENTATIVE EUGENE HAHN

FROM: Robert J. Conlin, Senior Staff Attorney

SUBJECT: Possible Arguments To Be Made That Passage of 1999 Senate Bill 276 Is Not Necessary or May Have Negative Unintended Consequences

This memorandum, prepared at your request, identifies several arguments that you may make that passage of 1999 Senate Bill 276 is not necessary or may have negative unintended consequences.

1999 Senate Bill 276 provides that the one-time sales tax rebate created by 1999 Wisconsin Act 10 is exempt from taxation under the Wisconsin income tax. The bill was introduced by Senator Farrow and others, and has been referred to the Joint Survey Committee on Tax Exemptions (JSCTE). The JSCTE has scheduled a public hearing and executive session on the bill for Thursday, January 6, 2000.

### **1. The Sales Tax Rebate Is Not Subject to the Income Tax**

For purposes of determining Wisconsin income tax liability, Wisconsin uses federal adjusted gross income, and modifies it by adding and subtracting various amounts, to establish an individual taxpayer's Wisconsin adjusted gross income.

Generally, because state sales taxes are not deductible for purposes of federal income taxes, and because the rebate returns to taxpayers a portion of the sales taxes they previously paid, a rebate of state sales taxes should not be considered taxable at the federal level and is thus not includable in federal adjusted gross income. Consequently, a state sales tax rebate would not be included in Wisconsin adjusted gross income.

This has apparently been the experience of other states that have offered a sales tax rebate. The Internal Revenue Service (IRS) has not considered similar sales tax rebates in Colorado and Minnesota to be taxable income. Thus, it can be argued that there is no reason to believe that the Wisconsin sales tax rebate will be treated any differently by the Internal Revenue

Service. In fact, it could be argued that passage of the bill might indicate to the IRS that the state does not consider the rebate to be a sales tax rebate exempt from federal taxation and thus consider it taxable.

## **2. Public Perception**

It could be argued that one of the major reasons that a sales tax rebate was the preferred method of distributing a state revenue surplus was that the rebate would not be subject to taxation. Public confidence in the rebate and the Legislature could be shaken if the passage of the bill were perceived as an admission that the sales tax rebate may be subject to federal taxation.

## **3. Fix it Later**

If proponents of passing the bill are concerned that the IRS may determine in the future that the sales tax rebate is subject to federal income taxation, it could be argued that the rebate could be exempted from Wisconsin income taxation at a later date after the IRS makes such a determination.

If you would like additional assistance on this matter, feel free to contact me at the Legislative Council Staff offices.

RJC:wu;ksm