STATE OF WISCONSIN

REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS

1999 ASSEMBLY BILL 860

[Introduced by Representative Gard; cosponsored by Senator Burke, by request of Department of Revenue.]

General Nature of Proposal and Fiscal Effect Upon the State

Generally, references to the Internal Revenue Code (IRC) in Wisconsin's tax code are periodically updated to reflect changes made by Congress to the IRC. This bill updates references to the IRC in Wisconsin's tax code to incorporate recent Congressional changes. In addition, the bill makes changes to current law with respect to the voluntary assignment of lottery prize winnings. The provisions of the bill that affect tax exemptions are more fully described below.

1. Employer Provider Educational Assistance

The recent changes to the IRC extend the exclusion from income for employer provided educational assistance to cover expenses paid by an employer for courses other than graduate level courses beginning before January 1, 2000. Under prior law, the exclusion applied to courses beginning before June 1, 2000. Under federal law, the exclusion is allowed for tuition, fees, books, supplies and equipment. A person may claim an exclusion of no more than $5,250 per year.

The Department of Revenue (DOR) estimates that if the extension of this exclusion is adopted by Wisconsin there will be a revenue loss of $2.2 million in fiscal year 2001 and $1.4 million in fiscal year 2002.

2. Environmental Remediation Costs

The recent changes to the IRC extend the expiration date for an election to deduct certain environmental remediation expenditures that would otherwise be charged to a capital account. The expiration date for making such an election would be December 31, 2001. Under the federal law, the election applies to both regular income tax and alternative minimum tax. Generally, the expenditure must be incurred in connection with abatement or control of hazardous substances at a qualified contamination site. A qualified contamination site must be: (a) held for use in a trade or business, for production of income or as inventory; (b) certified by a state agency as located in a targeted area; and (c) contain a hazardous substance.

The DOR estimates that the fiscal effect of adopting this change would be a loss of state revenues of $0.1 million in fiscal year 2001 and $0.3 million in fiscal year 2002.

3. Split-Dollar Insurance Arrangements

The federal changes to the IRC prohibit taxpayers from claiming charitable deductions for transfers associated with "split-dollar insurance arrangements." Generally, these arrangements involve transfers of money to a charity that are then used to pay premiums for life insurance on the life of the transferor or another individual. Exceptions are provided in the law for annuity contracts purchased by charities who fund charitable gift annuities and for charitable remainder trusts that hold life insurance, annuity or endowment contracts to pay annuity or uni-trust amounts. In these situations, the deduction allowed by federal law is limited to the value of the charity's interest.

The DOR indicates that the fiscal effect of this change would be a minimal revenue gain to the State of Wisconsin.

4. Real Estate Investment Trusts

Recent enactments of federal law made several changes to the IRC relating to the treatment of Real Estate Investment Trusts (REITs). One of the changes limits the deductible amount of interest paid or accrued by a taxable REIT subsidiary to its REIT parent so that a REIT subsidiary cannot deduct interest in any year that would exceed 50% of its adjusted gross income. This change would be effective for tax years beginning after December 31, 2001.

The DOR estimates that in conjunction with the other changes made to the REIT laws adopting the changes would result in state revenues of $0.2 million in fiscal year 2001 and $0.2 million in fiscal year 2002.

Legality Involved

There are no questions of legality involved.

Public Policy Involved

The provisions of the bill affecting tax exemptions are good public policy.

AB 860 -- Lottery Assignability

Current Law:

Lottery prizes are subject to Wisconsin income tax if the prizewinner is a Wisconsin resident or if the lottery ticket was purchased from a Wisconsin retailer. The lottery administrator is required to withhold income taxes from the amount paid to the winner of a lottery prize of $2,000 or more. In addition, the lottery administrator must report the name, address, and social security number of each prizewinner so that the Department of Revenue can withhold the following amounts from a lottery prize of $1,000 or more: delinquent state taxes; court-ordered child, spousal, or family support; court-ordered fines; and other debts owed to the state. The lottery administrator is not required to report the federal taxpayer identification number for any person (such as a corporation) that does not have a social security number.

With court approval, a lottery prizewinner may voluntarily assign all or part of the lottery prize to another person. In this case, the prizewinner is subject to Wisconsin income tax on the income received from the sale of the lottery prize. However, no withholding is required from the amount received by the original prizewinner for the rights to the lottery prize. This makes it difficult to collect the taxes owed by the original prizewinner.

The person who purchases the rights to the lottery prize (the assignee) is subject to Wisconsin income tax on the difference between the amount of the lottery prize and amount paid to purchase the prize. The lottery administrator is required to withhold income taxes from the payments made to the assignee of the lottery prize. In addition, the Department of Revenue must offset delinquent state taxes, court-ordered child, spousal, or family support; court-ordered fines; and other debts owed to the state from the payments made to the assignee of the lottery prize. However, an assignee who is not required to have a social security number (such as a corporation) is not required to furnish a taxpayer identification number to the lottery administrator so that the Department of Revenue can determine if the assignee owes delinquent taxes or other debts to the state.

Proposed Law:

A person who purchases the rights to a lottery prize is required to withhold Wisconsin income taxes from the amount paid to the lottery prizewinner for those rights and deposit the taxes with the Department of Revenue. The assignee must provide the original prizewinner and the department with a written statement reporting the name and taxpayer identification number of the payer and payee, the amount paid to purchase the lottery prize, and the amount of income tax withheld. These provisions ensure the collection of Wisconsin income taxes due from a prizewinner who has assigned the rights to the lottery prize to another person.

In addition, the bill requires the lottery administer to report the federal taxpayer identification number or employer identification number of a prizewinner or assignee who does not have a social security number. This will enable the Department of Revenue to determine whether the person owes delinquent taxes or other debts to the state that should be withheld from the lottery payments.

IRC update

Lottery Assignments in AB 860

- Finance Co's that purchase lottery winnings have to withhold taxes

- Finance Co's w/holding state income taxes is 7% of payout

Finance Co's making more $ out of it

- New internal revenue code

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