



State of Wisconsin • DEPARTMENT OF REVENUE

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Scott McCallum
Governor

Richard G. Chandler
Secretary of Revenue

October 1, 2001

The Honorable Judy Robson
Co-Chair, Joint Committee for Review
of Administrative Rules
State Capitol, Room 15 South
P.O. Box 7882
Madison, WI 53707-7882

The Honorable Glenn Grothman
Co-Chair, Joint Committee for Review
of Administrative Rules
State Capitol, Room 15 North
P.O. Box 8952
Madison, WI 53708

Re: Clearinghouse Rule 99-158

Dear Senator Robson and Representative Grothman:

Copies of Clearinghouse Rule 99-158 in final draft form and the Report to the presiding officers of the State Senate and Assembly required under s. 227.19(2) and (3). Stats., are enclosed.

Sincerely,

Richard G. Chandler
Secretary of Revenue

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Enclosures

PROPOSED RULE ORDER OF THE DEPARTMENT OF REVENUE

The Wisconsin Department of Revenue hereby proposes an order to repeal Tax 20, Subchapter I, Tax 20, Subchapter II (title), Tax 20.11(2), and 20.16(1)(b); to renumber Tax 20.16(1)(a); to renumber and amend Tax 20.14(1)(a) and (2)(a), and 20.15(5); to amend Chapter Tax 20 (title), Tax 20.11(1), (3), (4), (5), 20.12(title) and (3), 20.14(1)(c), (2)(b) and (c), 20.15(1)(a), (b) and (e), (2), (3), (4)(a)1. and 2. and (d), 20.16(title) and (1)(title), 20.17(title), (1)(a), (2), and (4), 20.18(1)(e), and 20.19(1) and (2)(intro); to repeal and recreate Tax 20.13, 20.15(4)(c)1. and 2., 20.16(2), 20.18(2), and 20.19(2)(b); and to create Tax 20.11(3m) and (8m), 20.14(1)(a)2., (1)(d), (2)(a)2., and (3), and 20.15(5)(b) relating to the lottery and gaming property tax credit.

Analysis Prepared by Department of Revenue:

Statutory authority: s. 227.11(2), Stats.

Statutes interpreted: ss. 66.058(3) and 79.10(10), Stats.

The lottery credit program was enacted by 1991 Wisconsin Act 39. Chapter Tax 20 was created to guide the administration of the lottery credit and first applied to the credit against 1991 property taxes. Chapter Tax 20 was amended to guide the administration of the lottery credit against property taxes for 1992 and thereafter.

Prior to 1996, homeowners claimed the credit on a property through an annual application in which they attested that as of the January 1 certification date, they were the owner of the property which they used as their primary residence. Also prior to 1996, an incorporated municipality could request the department of revenue's approval to administer the lottery credit within its jurisdiction.

In 1996, a circuit court found the distribution of the lottery credit to homeowners violated the uniformity clause of the state's constitution. As a result, no lottery credits were extended on 1996/97 property tax bills. Following 1997 Wisconsin Act 27, lottery credits were extended to all taxable properties, including personal property, on 1997/98 and 1998/99 property tax bills.

The 1997/99 and 1999/01 Legislatures approved a joint resolution to amend the Constitution by requiring that proceeds from lottery, pari-mutuel on-track betting and bingo be used for property tax relief for state residents; the proposed amendment further specified that the property tax relief would not have to conform to the rules for uniform taxation. On April 6, 1999, Wisconsin voters approved the proposed amendment.

1999 Wisconsin Act 5 requires that the lottery credit be distributed to owners of primary residences.

1999 Wisconsin Act 5 is similar to the law prior to 1996 in that the lottery credit is to be distributed to homeowners through a precertification process. However, 1999 Act 5 differs from the law prior to 1996 in the following respects: 1) the name of the credit is changed from the lottery credit to the lottery and gaming credit; 2) whereas prior law required an annual certification, Act 5 provides for a 5-year certification process; 3) whereas prior law allowed the department to authorize cities to administer the credit,

Act 5 authorizes only counties and the City of Milwaukee to administer the lottery credit and allows the department to authorize a certification process other than the specified claim process; and 4) whereas prior law provided \$0.50 per claim, Act 5 provides \$0.70 per claim for administrative costs. Finally, the reporting requirements for treasurers under Act 5 differ from those under prior law.

1999 Act 9 allows a new homeowner to apply to the department for and receive the lottery and gaming credit on the property if the new homeowner can attest that, to his or her knowledge, the previous owner used the property as a primary residence on the certification date.

2001 Act 16 allows property owners to claim the credit after January 31 but prior to October 1 by filing a claim with the Department of Revenue.

Chapter Tax 20, Subchapter I is specific to the 1991 lottery credit and is no longer needed; therefore, its repeal is proposed. The amendments to Chapter Tax 20 are required to account for the law changes in 1999 Acts 5 and 9 and 2001 Act 16. The proposed amendments will change the rule in the following ways:

- change the name from the lottery credit to the lottery and gaming credit;
- provide for an application every 5 years;
- explain how claims in interim years are made;
- explain how new homeowner claims are made;
- explain how late claims are administered;
- revise the claimant information to be provided to the department;
- explain the reimbursement procedures for administrative costs;
- repeal the authorization for approved cities to administer the credit;
- specify dates by which counties seek permission for alternative certification procedures.

Section 1. Chapter Tax 20 (title) is amended to read:

CHAPTER 20 (title) LOTTERY AND GAMING CREDIT.

Section 2. Tax 20, Subchapter I is repealed.

Section 3. Tax 20, Subchapter II (title) is repealed.

Section 4. Tax 20.11(1) is amended to read:

Tax 20.11(1) "Application" means application to claim the lottery and gaming credit.

Section 5. Tax 20.11(2) is repealed.

Section 6. Tax 20.11(3) is amended to read:

Tax 20.11(3) "Approved parcel" means a parcel of taxable real estate or an item of personal property that contains the primary residence of an owner whose

application for a lottery and gaming credit has been timely made under s. Tax 20.14 or s. Tax 20.18 or extended under s. Tax 20.13 and has not been disqualified by the department.

Section 7. Tax 20.11(3m) is created to read:

Tax 20.11(3m) "Certification date" means the January 1 of the year the tax is levied.

Section 8. Tax 20.11(4) and (5) are amended to read:

Tax 20.11(4) "Credit" means the lottery and gaming credit under ss. 66.058(3)(c) and 79.10, Stats.

20.11(5) "Credit value" means the value of property set by the ~~legislature~~ department as provided in s. 79.10(11)(c), Stats., for purposes of computing the lottery and gaming credit.

Section 9. Tax 20.11(8m) is created to read:

Tax 20.11(8m) "Precertification year" means the first year in each 5-year cycle for filing claims for lottery and gaming credits, beginning with 1999 for taxable real or personal property and 2000 for mobile homes subject to a mobile home parking fee.

Section 10. Tax 20.12(title) and (3) are amended to read:

Tax 20.12 (title) **Computing the lottery and gaming credit.**

20.12(3) The amount of the property tax or mobile home parking permit fee due after subtracting the lottery and gaming credit may not be less than zero.

Section 11. Tax 20.13 is repealed and recreated to read:

Tax 20.13 Authorization for alternative certification procedures. A county, or a city that collects taxes under s. 74.87, Stats., may request the department's approval to use a certification procedure other than that under s. Tax 20.14(1) for certifying claims in a precertification year. The request shall be in writing and shall indicate the procedure to be used, which shall be consistent with that prescribed by the department. The request shall be made by July 1 of the year prior to the precertification year. Ss. Tax 20.11, 20.12, 20.14(1)(a)2., (b),(c) and (d), 20.15(1)(e),(2),(3),(4) and (5), 20.16, 20.17, 20.18 and 20.19 as they apply to credits under s. Tax 20.14 apply to credits extended under this section.

Section 12. Tax 20.14(1)(a) is renumbered s. Tax 20.14(1)(a)1. and is amended to read:

Tax 20.14. **How to claim the credit.** (1) TAXABLE PROPERTY. (a) 1. (title) 'Precertification years.' An owner of taxable property who qualifies for the lottery and gaming credit may claim the credit on an application prescribed by the department. The owner must attest that as of the certification date of the precertification year, he or she is

the owner of the property described on the application and that as of that date he or she uses the property as his or her primary residence. The completed application shall be filed with the county treasurer except that ~~in approved cities and in a city that collects taxes under s. 74.87, Stats., the application shall be filed with the city treasurer.~~ ~~The certification date for the tax levied in 1992 is July 1, 1992. Thereafter, the certification date is the January 1 of the year the tax is levied.~~ Beginning with the credit for 1999 property taxes, a claim that is made under this subdivision is valid for 5 years, except as provided under s. Tax 20.19(2).

NOTE: A copy of the prescribed application for the 1999 credit, including instructions, is attached as an appendix.

Section 13. Tax 20.14(1)(a)2. is created to read:

Tax 20.14(1)(a) 2. 'Interim years.' An owner of taxable property who becomes eligible to claim a credit in years other than a precertification year may claim the credit by filing an application with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, Stats., with the treasurer of that city. The owner must attest that as of the certification date, he or she is the owner of the property described on the application and that as of that date he or she uses the property as his or her primary residence. Except as provided under s. Tax 20.19(2), claims made under this subdivision are valid until the next following precertification year.

Section 14: Tax 20.14(1)(c) is amended to read:

Tax 20.14(1)(c) An owner who qualifies for the credit against taxes but whose tax bill does not reflect the credit may claim the credit until January 31 following the issuance of the tax bill by filing the application under par. (a) with the treasurer collecting the taxes. If the application is approved, the treasurer shall proceed under s. Tax 20.15(1)(e). Applications made after January 31 shall be filed with the department as provided under s. Tax 20.18.

Section 15: Tax 20.14(1)(d) is created to read:

Tax 20.14(1)(d) 1. If a property that has been transferred qualifies for the credit because a previous owner used the property as his or her primary residence on the certification date, a subsequent owner of the property may apply for the credit on a form prescribed by the department. The applicant shall attest that to his or her knowledge, the property was used as a primary residence by a prior owner of the property as of the certification date. Applications made under this paragraph shall be filed with the treasurer of the county in which the property is located or, if the property is located in a city that collects taxes under s. 74.87, Stats., with the treasurer of that city.

2. An owner who qualifies for the credit under this paragraph but whose tax bill does not reflect the credit may claim the credit until January 31 following the issuance of the tax bill by filing the application under subd. 1. with the treasurer collecting the taxes. If the application is approved, the treasurer shall proceed under s. Tax 20.15(1)(e). Applications made after January 31 shall be filed with the department for processing under s. Tax 20.18(2).

3. A claim made under this paragraph is valid until the next following precertification year. If the claimant under this paragraph does not own or use the property as his or her primary residence on the certification date of any year subsequent to the year of the claim, the claimant shall withdraw the claim as required under sub. (3).

Section 16. Tax 20.14(2)(a) is renumbered s. 20.14(2)(a)1. and is amended to read:

Tax 20.14(2) MOBILE HOMES. (a) 1. (title) 'Precertification years.' The owner of a mobile home subject to a monthly mobile home parking permit fee who qualifies for the credit may claim the credit on an application prescribed by the department. The owner must attest that as of January 1 of the precertification year he or she is the owner of the mobile home described on the application and as of that date he or she uses the mobile home as his or her primary residence. The completed application must be filed with the taxation district treasurer ~~no later than January 31 of the year the fees are payable.~~ Beginning with the credit for fees payable in 2000, a claim that is made under this subdivision is valid for 5 years, except as provided under s. Tax 20.19(2).

Section 17. Tax 20.14(2)(a)2. is created to read.

Tax 20.14(2)(a) 2. (title) 'Interim years.' An owner of a mobile home who becomes eligible to claim a credit in years other than a precertification year may claim the credit by filing an application with the taxation district treasurer. The owner must attest that as of the January 1 of the year the fees are payable, he or she is the owner of the property described on the application and that as of that date he or she uses the property as his or her primary residence. Except as provided under s. Tax 20.19(2), claims made under this subdivision are valid until the next following precertification year.

Section 18. Tax 20.14(2)(b) and (c) are amended to read:

Tax 20.14(2)(b) The taxation district treasurer shall compute the amount of the lottery and gaming credit under s. Tax 20.12(2). One twelfth of the credit so determined shall be subtracted from each monthly mobile home parking permit fee otherwise due for the parking site occupied by the owner under par. (a) on January 1.

(c) The amount of the lottery and gaming credit pertaining to months in which a fee is not due for the parking site of an owner under par. (a) shall be recorded by the taxation district treasurer and remitted to the department of administration by January 20 of the following year. The taxation district treasurer shall charge back to the school district the corresponding credits settled for under s. Tax 20.17.

Section 19. Tax 20.14(3) is created to read:

Tax 20.14(3) WITHDRAWING A CLAIM. Within 30 days of the date on which the claimant no longer owns the parcel of taxable real or personal property or the mobile home subject to a mobile home parking fee on which a claim was based or no longer uses the property as his or her primary residence, the claimant shall inform the treasurer administering the credit under s. Tax 20.14 that he or she is no longer eligible to claim a credit for the property. Failure to do so may subject the owner to penalties under s. Tax 20.19(2). This subsection also applies to credits extended under s. Tax 20.13.

Section 20. Tax 20.15 (1)(a),(b) and (e), (2), (3) and (4)(a)1. and 2. are amended to read:

Tax 20.15. Responsibilities of county treasurer and taxation district treasurer. (1) (title) CERTIFICATION OF LOTTERY AND GAMING CREDIT. (a) The treasurer administering the credit under s. Tax 20.14(1)(a)1. shall prepare applications for parcels likely to qualify for the lottery and gaming credit and those upon request. Prepared applications shall include the parcel number and the property address or other description of the property. The prepared application for the lottery and gaming credit on property taxes for 1999 and for each precertification year thereafter shall be distributed to the owner of the parcel.

(b) The treasurer under s. Tax 20.14 (1) (a) shall accept applications for the lottery and gaming credit for taxable property through the October 31 prior to issuance of the tax bill. The treasurer shall accept facsimiles of applications or other documents evidencing a claim that include all the information contained in the application form prescribed by the department if such facsimiles or other documents are received by the treasurer by October 31. The treasurer shall not accept applications postmarked earlier than the certification date.

(e) An owner who qualifies for the lottery and gaming credit but whose tax bill does not reflect the credit may claim the credit until January 31 following the issuance of the tax bill by filing the application under s. Tax 20.14(1)(a) with the treasurer responsible for collecting the January payment of the owner's property taxes. The treasurer shall compute the credit, subtract it from the amount due for the approved parcel of the owner and make an appropriate entry in the tax role. If the tax has been paid in full, the treasurer shall provide a refund. ~~Except for approved cities, the~~ The treasurer shall, on or before settlement under ss. 74.25 or 74.30, Stats., convey to the county treasurer the parcel number, property address or other description of the property and the name and mailing address for each claim accepted under this paragraph.

(2) TAX ROLL ENTRIES. The tax roll shall indicate the amount of lottery and gaming credits ~~claimed for~~ extended to approved parcels.

(3) PROPERTY TAX BILLS. The treasurer under s. Tax 20.14(1) or s. Tax 20.13 shall cause the lottery and gaming credit to appear on tax bills for approved parcels for which an application has been received under sub. (1)(b) or extended under s. Tax 20.13. The total amount of the lottery and gaming credit shall be deducted from the net property tax included in the first instalment. If the lottery and gaming credit exceeds the amount of net property taxes included in the first instalment, the excess shall be deducted from subsequent instalments but no instalments may be reduced below zero. On tax bills for approved parcels issued by a city that collects general property taxes under s. 74.87, Stats., the lottery and gaming credit may be prorated over instalment payments.

(4) INFORMATION PROVIDED TO THE DEPARTMENT. (a) *March report.* 1. On or before March 1, the county treasurer shall report to the department the total number and amount of credits claimed under s. Tax 20.14(1) or extended under s. Tax 20.13 ~~against taxes levied in the previous December~~ in each taxation district in the county except that ~~for taxation districts in approved cities and~~ taxation districts in a city that collects taxes under s. 74.87, Stats., the city treasurer shall report to the department. The report shall be on a form prescribed by the department and shall be signed by the treasurer.

2. On or before March 1, each taxation district treasurer shall report to the department the total number and amount of credits claimed through the ~~preceding January 31~~ last day in February for mobile homes subject to a monthly parking permit fee. The report shall be on a form prescribed by the department and shall be signed by the taxation district treasurer.

Section 21. Tax 20.15(4)(c)1. and 2. are repealed and recreated to read:

Tax 20.15(4)(c) Claimant report. 1. 'Taxable property.' a. Precertification years. On or before November 1, 1999 and on or before August 16 of each precertification year thereafter, the treasurer with whom applications for credits are filed under s. Tax 20.14(1)(a)1 shall provide the department a report of all claims made under ss. Tax 20.14(1)(a)1. and (d) for that year's lottery and gaming credit, and treasurers under s. Tax 20.13 shall provide a report for all claims to be applied on the property tax roll for the year of precertification. The report shall indicate for each individual claim the parcel number, property address or other description of the property, and the name and mailing address for purposes of mailing the tax bill. The report shall be in a computer-readable format. On or before March 1 of the year following the precertification year, treasurers under sub. (1)(a) and s. Tax 20.13 shall provide the department an updated report of all claims made in the precertification year, including late claims made under sub. (1) (e). The March 1 report shall be in a computer-readable format and shall indicate for each individual claim the parcel number, property address or other description of the property, the name and mailing address for purposes of mailing the tax bill and the credit amount.

b. Interim years. On or before May 1 of each year other than precertification years, the treasurer with whom claims for credits are filed under s. Tax 20.14(1)(a)2. shall file with the department a report of all claims made under s. Tax 20.14(1)(a)2. and (d) for that year's lottery and gaming credit. The report shall contain the parcel numbers, property addresses or other descriptions of properties for which claims were filed and the names and mailing addresses for purposes of mailing the tax bills. The report shall be in computer-readable format. By March 1 of the following year, the treasurer shall file with the department a report of all claims for the previous year's lottery and gaming credit, including claims made under ss. Tax 20.14(1)(a)2. and (d), claims made in a precertification year that are valid for the previous year and late claims made for lottery and gaming credits for the previous year. The March 1 report shall be in a computer-readable format and shall indicate for each individual claim the parcel number, property address or other description of the property, the name and mailing address for purposes of mailing the tax bill and the credit amount. This subdivision also applies to interim year credits extended under s. Tax 20.13.

Example: On May 1, 2000 the county treasurer provides the department a report of all claims for the 2000 lottery and gaming credit made in 2000 through
 1) applications made to the county treasurer and 2) late claims made to the municipal treasurer and 3) late claims made to the department. **Prior-year claims that remain valid are not included in the May 1 report.** On March 1, 2001, the treasurer provides the department a report of all claims made for the 2000 credit - both prior year claims that are valid for the 2000 credit and claims made in 2000 as well as late claims made in 2001 (for the 2000 credit).

2. 'Mobile homes.' a. Precertification years. On or before November 1, 1999 and on or before August 16, 2004 and every 5th year thereafter, each taxation district administering credits to mobile homes subject to a mobile home parking fee shall provide the department an estimate of the number of claims to be made under s. Tax 20.14(2)(a)1. for the next precertification year. On or before May 1, 2000 and every 5th year thereafter, each taxation district administering credits to mobile homes subject to a mobile home parking fee shall provide the department a report of all claims made under s. Tax 20.14(2)(a)1. for that year's lottery and gaming credit. The report shall indicate for each individual claim the account number and address of the mobile home and the claimant's name and mailing address.

b. Interim years. On or before May 1 of each year other than precertification years, each taxation district administering credits to mobile homes subject to a mobile home parking fee shall file with the department a report of all claims made under s. Tax 20.14(2)(a)2. for that year's lottery and gaming credit, including claims made in a precertification year that continue to be valid. The report shall indicate for each individual claim the account number and address of the mobile home and the claimant's name and mailing address.

Section 22. Tax 20.15(4)(d) is amended to read:

Tax 20.15(4)(d) *Corrections report.* On or before October 1, the treasurer under sub. (1) and the treasurer under s. Tax 20.13 shall report to the department all corrections and adjustments made to the lottery and gaming credit claims of the previous year under s. Tax 20.18(2).

Section 23: Tax 20.15(5) is renumbered s. 20.15(5)(a) and is amended to read:

Tax 20.15(5) RECORD RETENTION. (a) ~~Each~~ Except for credits extended under s. Tax 20.13, each claim for a lottery and gaming credit shall be supported by a signed application or a facsimile thereof which shall be available for inspection by the department in the office of the treasurer under sub. (1) or (2) for 4 5 calendar years beginning with the year for which the credit was claimed.

Section 24: Tax 20.15(5)(b) is created to read:

Tax 20.15(5)(b) All computer programs and records used to extend credits under s. Tax 20.13 shall be available for inspection by the department in the office of the treasurer authorized under s. Tax 20.13 for 5 calendar years beginning with the year for which the credit was extended.

Section 25. Tax 20.16 (title) and (1)(title) are amended to read:

Tax 20.16 (title) **Payment of lottery and gaming credits and administrative reimbursement.**

(1) (title) **LOTTERY AND GAMING CREDIT.**

Section 26. Tax 20.16(1)(a) is renumbered 20.16(1).

Section 27. Tax 20.16(1)(b) is repealed.

Section 28. Tax 20.16(2) is repealed and recreated to read:

Tax 20.16(2) ADMINISTRATIVE REIMBURSEMENT. (a) On November 19, 1999 the department of administration shall pay:

1. to the county or municipality using the claims procedure under s. Tax 20.14(1) \$0.70 for each application on file as of October 15, 1999 as reported under s. Tax 20.15(4)(c)1.a.
2. to the county or municipality using an alternative procedure under s. Tax 20.13, the lesser of \$0.70 for each claim as reported under s. Tax 20.15(4)(c)1.a. or the actual cost incurred in identifying the claims reported under s. Tax 20.15(4)(c)1.a. A statement detailing the costs incurred shall document actual costs.
3. to the municipality using the claims procedure under s. Tax 20.14(2) \$0.70 for each estimated application for the 2000 lottery and gaming credit as reported under s. Tax 20.15(4)(c)2.a.

(b) On the first Friday in September in 2004 and every 5th year thereafter, the department of administration shall pay:

1. to the county or municipality using the claims procedure under s. Tax 20.14(1), \$0.70 for each application received under s. Tax 20.14(1)(a) 1. as of August 1 of a precertification year as reported under s. Tax 20.15(4)(c)1.a .
2. to the county or municipality using an alternative procedure under s. Tax 20.13, the lesser of \$0.70 for each claim as reported under s. Tax 20.15(4)(c)1.a. or the actual cost incurred in identifying the claims reported under s. Tax 20.15(4)(c)1.a. A statement detailing the costs incurred shall document actual costs.
3. to the municipality using the claims procedure under s. Tax 20.14(2) \$0.70 for each estimated claim to be made in the next precertification year as reported to the department under s. Tax 20.15(4)(c)2.a.

(c) Correction payments made under s. 79.10(7r)(c), Stats., for underpayments of the lottery and gaming credit shall be made on the first Friday in September of the year following payments under pars. (a) and (b). If there are overpayments of the lottery and gaming credit made under s. 79.10(7r)(b), Stats., the department shall collect the overpayment from the county or taxation district. If the department does not receive the overpayment by June 30 of the year following the payment under s. 79.10(7r)(b), Stats., it shall certify to the department of administration on or before the first Friday in August the amount as a state special charge. The department of administration shall include the state special charge in its certification under s. 70.60, Stats.

Section 29. Tax 20.17 (title), (1)(a), (2) and (4) are amended to read:

Tax 20.17 (title) **Settlement for lottery and gaming credits.**

Tax 20.17(1)(a) Settle with taxing jurisdictions for the payment of lottery and gaming credits under s. Tax 20.16(1)(a).

(2) Settlement for lottery and gaming credits shall be the same as settlement of other tax payments except that lottery and gaming credits may only be used to reduce general property taxes; they may not be applied against special assessments, special charges and special taxes.

(4) The settlement under s.74.29, Stats., shall include the amount of lottery and gaming credits to be paid to the county treasurer under s. Tax 20.16(1)(b)1.

Section 30. Tax 20.18(1)(e) is amended to read:

Tax 20.18(1)(e) The amount certified under par. (c) for each taxation district shall be added to, or deducted from, the total lottery and gaming credits of the following year paid to the taxation district in March of the following year.

Section 31. Tax 20.18(2) is repealed and recreated to read:

Tax 20.18(2) If the department determines by October 1 of the year of any distribution under s. Tax 20.16(1)(a) that there was an omitted lottery and gaming credit due to an eligible claim made after January 31, the department shall issue a check to the taxpayer in the amount equal to the computed credit. The department shall convey to the county treasurer the parcel number, property address or other description of the property and the name and mailing address for each omitted claim.

Section 32. Tax 20.19(1) and 20.19(2)(intro.) are amended to read:

Tax 20.19 Audit; penalties. (1) The department shall audit claims for the lottery and gaming credits and credits extended under s. Tax 20.13. The department may audit the computer programs and records of county treasurers and treasurers of a taxation district that collects taxes under s. 74.87, Stats., used to extend credits under s. Tax 20.13.

(2)(intro.) If the department determines that a credit was ~~extended to a claimed for an approved~~ parcel or a mobile home subject to a monthly parking permit fee ~~by a person who that~~ does not qualify for the credit ~~on the approved parcel or mobile home~~, the department shall proceed as follows:

Section 33. Tax 20.19(2)(b) is repealed and recreated to read:

Tax 20.19(2)(b) If the determination is after the tax roll is prepared, the department shall instruct the appropriate taxation district to collect the credit as a special charge on the next property tax bill issued for the property.

Initial Regulatory Flexibility Analysis:

The proposed rule does not have a significant economic impact on a substantial number of small businesses.

Dated 10/4/01

DEPARTMENT OF REVENUE

By: Richard G. Chandler
Richard G. Chandler
Secretary of Revenue

LOTTERY AND GAMING CREDIT APPLICATION

You may claim the lottery and gaming credit for 1999 taxes, payable in 2000, if, on January 1, 1999, you were the owner of the property described in the box and used that property as your primary residence. (Note: "primary residence" is defined below.) If you meet these requirements, you may claim the credit by signing in the place indicated. If you return this form by _____ to the County Treasurer's Office, a lottery and gaming credit will be shown on your December 1999 property tax bill. If you do not claim the credit using this form, no credit will appear on the tax bill.

Do not return this form if you did not own the property on January 1, 1999, or if the property was not your primary residence on January 1, 1999.

General application for the Lottery and Gaming Credit will occur every 5 years. The next general application will occur in 2004. If you complete the application below, you will also be claiming a credit on your property tax bills in 2000, 2001, 2002 and 2003 so long as the property continues to qualify. The property qualifies for the credit in each of those years if you own and use the property as your primary residence **on January 1 of that year**. For example, if you used the property as your primary residence on January 1, 1999, the property qualifies for the 1999 credit. If you continue to use the property as your primary residence on January 1, 2000, the property qualifies for the 2000 credit. If you sell the property any time after January 1, 2000, the property still qualifies for the 2000 credit, but you would not qualify for the credit in 2001, since you did not own and use it as your primary residence on January 1, 2001.

The law requires that you notify your county treasurer within 30 days after you no longer qualify to claim the credit either because you no longer own the property or no longer use it as your primary residence.

For additional information about the lottery and gaming credit, contact the County Treasurer's Office or the Wisconsin Department of Revenue, P.O. Box 8933, Madison, WI 53708-8933.

1999 LOTTERY AND GAMING CREDIT CLAIM	
Property Address/Description <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>	Parcel Number: _____ <input type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> City of } _____ County of _____
I attest, under penalty of law, that as of January 1, 1999, I was an owner of the property described above and that as of that date I used the property as my primary residence. I understand that by signing this application, I am also making a claim for the credit for the years 2000, 2001, 2002 and 2003. I understand that I am to notify the county treasurer within 30 days of the date on which I no longer own the property or no longer use the property as my primary residence.	
Signature	Date
Print Name Clearly	

*Note: Your **primary residence** is where you live most of the time. When you are temporarily away, it is the home to which you intend to return. You can have only one primary residence. **YOU MAY ONLY RETURN ONE CLAIM FORM.***

Return this form by _____ to the County Treasurer's Office.

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #
INTRODUCTION #
Admin. Rule # Chapter TAX 20

Subject
 Lottery and Gaming Credit

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation	<input type="checkbox"/> Decrease Costs	

Local: No Local Government Costs

1. <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input checked="" type="checkbox"/> Others <u>City of Milwaukee</u> <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

Chapter Tax 20 was created in 1991 to guide the administration of the lottery property tax credit in effect from 1992 to 1995, which was extended to homeowners through an annual application process. The credit was not extended in 1996/97 due to a circuit court ruling. As result of that court decision, the credit was extended to all taxable properties in 1997/98 and 1998/99.

Under 1999 Wisconsin Act 5, the lottery and gaming credit is again extended only to owners of primary residences through an application process whereby the owner of a qualifying property attests that he used the property as his primary residence on the previous January 1. However, Act 5 differs in various respects from the law on which Chapter Tax 20 is based. Act 5 specifies an application once every 5 years, whereas the existing rule pertains to an annual application. Act 5 authorizes only counties and the City of Milwaukee to administer the credit, whereas the existing rule allows cities authorized by the department to administer the rule. Other changes made by Act 5 include provisions that: 1) allow the department to authorize a certification procedure other than the specified claim process; 2) change the name from the lottery credit to the lottery and gaming credit; and 3) increase the amount of reimbursement for administrative costs from \$.50 to \$.70 for the year of precertification. 1999 Act 9 allows a new property owner to claim the credit if a previous owner qualified on the certification date. 2001 Act 16 allows property owners to claim the credit after January 31 but prior to October 1 by filing a claim with the Department of Revenue.

The proposed amendment to Chapter Tax 20 is required to bring the rule into conformity with current law as affected by the changes in 1999 Acts 5 and Act 9 and 2001 Act 16. The proposed amendment has no fiscal effect independent of the statutory changes made in these acts.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Rebecca Boldt, 266-6785	Authorized Signature/Telephone No. Brian Pahnke <i>Brian Pahnke</i> (608) 266-2700	Date 10/20/99
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FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule #
Chapter Tax 20

Subject
Lottery and Gaming Credit

I. One-Time Costs or Revenue Impacts 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		
State Operations - Salaries and Fringe	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
State Operations-Other 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		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ See text of fiscal note.

\$ See text of fiscal note.

NET CHANGE IN REVENUES

\$

\$

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue Rebecca Boldt, 266-6785	Brian Pahnke (608) 266-2700	10/2/01

DEPARTMENT OF REVENUE

CLEARINGHOUSE RULE NUMBER 99-158

SECTION 227.19(2) AND (3), STATS., REPORT

Need for Proposed Rule

The rule is necessary to bring the existing rule into conformity with statutory changes made in 1999 Wisconsin Acts 5 and 9 and 2001 Wisconsin Act 16.

Public Hearing

A public hearing was not required, pursuant to s. 277.17(2)(e), Stats.

Legislative Council Staff Recommendations

The Legislative Council commented that there is not clear statutory authority for s. Tax 20.18(2) in the proposed rule order. Tax 20.18(2) allows property owners to claim the credit after January 31 but prior to October 1 by filing a claim with the Department of Revenue. The rule specifies that if the Department determines the property to be eligible, it shall issue a check to the property owner in the amount of the computed credit. 2001 Wisconsin Act 16 provides the Department with this authority. 2001 Wisconsin Act 16 first applies to credits based on the property tax assessments as of January 1, 2001 but also applies to 1999 and 2000 credits.

The Legislative Council also questioned the Department's authority to process claims under s. Tax 20.14(1)(d). Under that provision, if a property transferred to a new owner during 1999 qualifies for the credit because the previous owner used the property as his or her primary residence on January 1, 1999, a subsequent owner of the property may apply for the 1999-2000 credit with the Department of Revenue. The proposed rule submitted to the Legislative Council directed the Department of Revenue to issue checks to these claimants in the amount of the computed credit. The rule specified for credit years after 1999, these types of claims are filed with the county treasurer administering the credit. The provision involving the Department of Revenue was included out of concern that county treasurers would have difficulty processing additional claims late in the 1999 claim year. In fact, all 1999-2000 claims made by new owners were processed by the county treasurers rather than the Department, so the Department's involvement in processing the 1999-2000 credit has been removed from the rule.

Other Changes

Several other changes were made to the rule that was submitted to the Legislative Council. Changes were made to clarify the requirements for the alternative method of certification under s. Tax 20.13. In particular, cross references were inserted in s. Tax 20.13 to make clear that relevant requirements and restrictions under the claim procedure also apply to alternative certification procedures. The deadline for applying for authority to use an alternative certification procedure was changed from October 1 to July 1. Also, s. Tax 20.14(1)(d) was changed to conform to the language in 2001 Wisconsin Act 16. Finally, s. Tax 20.19(1) has been changed to clarify the Department's ability to audit procedures used under an alternative certification method.

Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

RB:skr

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