

2003 DRAFTING REQUEST

Bill

Received: 01/29/2003

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Robert Welch (608) 266-0751

By/Representing: chris

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters: mshovers

Subject: Tax - sales
Tax Credits - individual income

Extra Copies: MES

Submit via email: YES

Requester's email: Sen.Welch@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Tax credit for sales tax paid to replace items lost by natural disaster

Instructions:

See Attached

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	jkreye 02/11/2003	jdyer 02/26/2003	jfrantze 02/26/2003	_____	mbarman 02/26/2003		State
	jkreye 03/12/2003	jdyer 02/26/2003		_____			
		jdyer 03/12/2003		_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2			rschluet 03/12/2003	_____	sbasford 03/12/2003		State
/1	jkreye 01/29/2004	jdyer 01/29/2004	jfrantze 01/29/2004	_____	Inorthro 01/29/2004	Inorthro 01/29/2004	State

FE Sent For:

<END>

At
intro.

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	jkreye 03/12/2003	jdyer 02/26/2003			State
		jdyer 03/12/2003			

*Please,
jacket
draft
for
introduction
Joe*

*1/29 jld
2/29 JFR
1/29*

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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By/Representing: **chris**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters: **mshovers**

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

Extra Copies: **MES**

Submit via email: **YES**

Requester's email: **Sen.Welch@legis.state.wi.us** ✓

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us** ✓

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No specific pre topic given

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/P1	jkreye 02/11/2003	jdyer 02/26/2003	jfrantze 02/26/2003	_____	mbarman 02/26/2003		State

jdyer
02/26/2003
P2 3/12 jld
3-12-3

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 01/29/2003

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Robert Welch (608) 266-0751

By/Representing: chris

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Drafter: jkreye

May Contact:

Addl. Drafters: mshovers

Subject: Tax - sales
Tax Credits - individual income

Extra Copies: *MSW*

Submit via email: YES

Requester's email: Sen.Welch@legis.state.wi.us

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No specific pre topic given

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/P1	jkreye	<i>PI 2/20 jld</i>	<i>2/26</i>	<i>2/25</i>			

FE Sent For:

<END>

Bob Welden

1-20-03

Chris

2

sales tax exemption — catastrophic event for
grandson made

doesn't have to be sales — need some sort of ^{reduction} ^{deduction}
Schedule H

▷ could be a sales tax income tax credit

(create ^{individual} income tax credit for the sales tax paid
on "replacement" items)



Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-10-03

D-N

Gen

refundable

1

AN ACT ...; relating to: creating a ^{refundable} individual income tax credit for sales and use taxes paid to replace damaged or destroyed tangible personal property

2

and
making an appropriation

Analysis by the Legislative Reference Bureau

to which the claim relates

This bill creates a ^{refundable} individual income tax credit that is equal to the amount of the sales and use taxes that an individual paid in the taxable year on the purchase of tangible personal property that the individual purchased to replace tangible personal property that was damaged or destroyed by fire, flood, or natural disaster. If the amount of the credit exceeds the individual's tax liability, the state will issue a check to the individual for the excess amount.

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:

3

SECTION 1. 20.835 (2) (cb) of the statutes is created to read:

4

20.835 (2) (cb) *Damaged tangible personal property credit.* A sum sufficient to

5

make the payments under s. 71.07 (5d).

6

SECTION 2. 71.05 (6) (a) 15. of the statutes is amended to read:

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
 2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), and (3s), and (5d) and not passed
 3 through by a partnership, limited liability company, or tax-option corporation that
 4 has added that amount to the partnership's, company's, or tax-option corporation's
 5 income under s. 71.21 (4) or 71.34 (1) (g).

6 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; 1999 a. 9, 22, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109.

6 SECTION 3. 71.07 (5d) of the statutes is created to read:

Definition.

7 71.07 (5d) DAMAGED TANGIBLE PERSONAL PROPERTY CREDIT. (a) In this subsection,
 8 "claimant" means an individual who files a claim under this subsection.

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim
 10 as a credit against the tax imposed under s. 71.02 the amount of any sales taxes
 11 imposed under s. 77.52 and use taxes imposed under s. 77.53 that the claimant paid
 12 in the taxable year *to which the claim relates* on the purchase of tangible personal property that the claimant
 13 purchased to replace tangible personal property that was damaged or destroyed by
 14 fire, flood, or natural disaster.

15 *NOT* If the allowable amount of the claim under this subsection exceeds the
 16 income taxes otherwise due on the claimant's income, the amount of the claim that
 17 is not used to offset those taxes shall be certified by the department of revenue to the
 18 department of administration for payment by check, share draft, or other draft
 19 drawn from the appropriation under s. 20.835 (2) (cb).

20 *Limitations, NO* (c) For a claimant who is a nonresident or part-year resident of this state and
 21 who is a single person or a married person filing a separate return, multiply the
 22 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
 23 which is the individual's Wisconsin adjusted gross income and the denominator of
 24 which is the individual's federal adjusted gross income. If a claimant is married and

1 files a joint return, and if the claimant or the claimant's spouse, or both, are
2 nonresidents or part-year residents of this state, multiply the credit for which the
3 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's
4 joint Wisconsin adjusted gross income and the denominator of which is the couple's
5 joint federal adjusted gross income.

No credit may be allowed under this subsection unless it is claimed within the time period under P. 71.75(2).

*Administration.
Section 71.28 (4) (m) and (n)
Subsection (5m)(d)*

6 *(d)* as it ~~relates~~ *applies* to the credit under ~~s. 71.28 (4)~~ *that subsection,*
7 *applies* ~~relates~~ to the credit under this subsection.

8 SECTION 4. 71.08 (1) (intro.) of the statutes is amended to read:

9 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
10 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),
12 (6), (6s), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and
13 (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and
14 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the
15 tax under this section, there is imposed on that natural person, married couple filing
16 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
17 computed as follows:

18 History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1995 a. 27, 200; 1997 a. 27, 237; 1999 a. 9; 2001 a. 109.

18 SECTION 5. 71.10 (4) (i) of the statutes is amended to read:

19 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
20 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
21 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
22 71.07 (2fd), damaged tangible personal property credit under s. 71.07 (5d), earned

1 income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and
2 taxes withheld under subch. X.

History: 1987 a. 312; 1987 a. 411 ss. 94, 97, 176 to 179; 1987 a. 422 s. 4; 1989 a. 31, 56, 359; 1991 a. 39; 1993 a. 16, 184; 1995 a. 27, 209, 418, 453; 1997 a. 27, 63, 237, 248; 1999 a. 9, 167; 2001 a. 16, 109.

3 **SECTION 6. Initial applicability.**

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

8 (END)

D-note
↓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1842/P1dn

JK&MES:.....

JK

Senator Welch:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

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

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

LRB-1842/P1dn
JK&MES:jld:jf

February 26, 2003

Senator Welch:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

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

Kreye, Joseph

From: Newhouse, Chris
Sent: Tuesday, March 11, 2003 4:26 PM
To: Kreye, Joseph
Subject: LRB 1842

Thank you for drafting the possible change to the law that Sen. Welch suggested. In order to emphasize the "injustice" of collecting the monies could you add a provision that the County of the person's loss has to be declared a disaster area by the Governor? This would eliminate normal losses due to fire, accident, etc. and keep it in the arena of natural disasters. Could you also require that a loss had to exceed \$4,999 or something, which would (I think) reduce the fiscal estimate?

Thank you,

Chris



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1842/F1
JK&MES:jld:jf

PD
RM not run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSERT A ✓

in 3-12-03
due 3-21
Friday

D-N

1 AN ACT to amend 71.08 (1) (intro.) and 71.10 (4) (i); and to create 20.835 (2) (cb)
2 and 71.07 (5d) of the statutes; relating to: creating a refundable individual
3 income tax credit for sales and use taxes paid to replace damaged or destroyed
4 tangible personal property and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit that is equal to the amount of the sales and use taxes that an individual paid in the taxable year to which the claim relates on the purchase of tangible personal property that the individual purchased to replace tangible personal property that was damaged or destroyed by fire, flood, or natural disaster. If the amount of the credit exceeds the individual's tax liability, the state will issue a check to the individual for the excess amount.

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:

5 SECTION 1. 20.835 (2) (cb) of the statutes is created to read:
6 20.835 (2) (cb) *Damaged tangible personal property credit.* A sum sufficient to
7 make the payments under s. 71.07 (5d).

1 **SECTION 2.** 71.07 (5d) of the statutes is created to read:

2 **71.07 (5d) DAMAGED TANGIBLE PERSONAL PROPERTY CREDIT.** (a) *Definition.* In this
3 subsection, “claimant” means an individual who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the tax imposed under s. 71.02 the amount
6 of any sales taxes imposed under s. 77.52 and use taxes imposed under s. 77.53 that
7 the claimant paid in the taxable year to which the claim relates on the purchase of
8 tangible personal property that the claimant purchased to replace tangible personal
9 property that was damaged or destroyed by fire, flood, or natural disaster. If the
10 allowable amount of the claim under this subsection exceeds the income taxes
11 otherwise due on the claimant’s income, the amount of the claim that is not used to
12 offset those taxes shall be certified by the department of revenue to the department
13 of administration for payment by check, share draft, or other draft drawn from the
14 appropriation under s. 20.835 (2) (cb).

15 (c) *Limitations.* ¹~~1~~ For a claimant who is a nonresident or part-year resident
16 of this state and who is a single person or a married person filing a separate return,
17 multiply the credit for which the claimant is eligible under par. (b) by a fraction the
18 numerator of which is the individual’s Wisconsin adjusted gross income and the
19 denominator of which is the individual’s federal adjusted gross income. If a claimant
20 is married and files a joint return, and if the claimant or the claimant’s spouse, or
21 both, are nonresidents or part-year residents of this state, multiply the credit for
22 which the claimant is eligible under par. (b) by a fraction the numerator of which is
23 the couple’s joint Wisconsin adjusted gross income and the denominator of which is
24 the couple’s joint federal adjusted gross income.

INSERT 2-15 ✓

✓
3

1

2. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

(d) *Administration.* Subsection (5m) (d), as it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 3. 71.08 (1) (intro.) of the statutes is amended to read:

71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d), (6), (6s), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

SECTION 4. 71.10 (4) (i) of the statutes is amended to read:

71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under subch. IX, homestead credit under subch. VIII, farmland tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s. 71.07 (2fd), damaged tangible personal property credit under s. 71.07 (5d), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

SECTION 5. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after

1 July 31 this act first applies to taxable years beginning on January 1 of the year
2 following the year in which this subsection takes effect.

3

(END)

D-note
↓

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1842/P1ins
JK&MES;jld:jf

Insert A

NO ~~§~~ No person may claim the tax credit unless the governor declares a state of emergency or disaster with regards to the county, city, village, or town in which the damaged or destroyed tangible personal property was located and the value of the damaged or destroyed tangible personal property exceeds \$4,999. *total* *all of*

Claimant's

Insert 2 - 15

1 *NO* ~~§~~ 1. No claim may be allowed under this subsection *✓* unless all of the following
2 apply:

3 a. The governor declares a state of emergency or disaster with regards to the
4 county, city, village, or town in which the damaged or destroyed tangible personal
5 property was located.

6 *total* *all of* *claimant's*
b. The value of the damaged or destroyed tangible personal property exceeds
7 \$4,999 *✓* and the claimant submits evidence of such value with the return.

→ ~~§~~ 2. *NO* ~~§~~

(end ins 2-15)

1842/P1

JK: jld

D-N

Welch
Senator Uebel:

Please review this draft carefully to ensure that
it is consistent with your intent. ✓

JK

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

LRB-1842/P2dn
JK:jld:rs

March 12, 2003

Senator Welch:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1842/PZ
JK&MES:jld:rs

RMR

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

Today please

1-29-04

Regen

- 1 AN ACT *to amend* 71.08 (1) (intro.) and 71.10 (4) (i); and *to create* 20.835 (2) (cb)
2 and 71.07 (5d) of the statutes; **relating to:** creating a refundable individual
3 income tax credit for sales and use taxes paid to replace damaged or destroyed
4 tangible personal property and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit that is equal to the amount of the sales and use taxes that an individual paid in the taxable year to which the claim relates on the purchase of tangible personal property that the individual purchased to replace tangible personal property that was damaged or destroyed by fire, flood, or natural disaster. No person may claim the tax credit unless the governor declares a state of emergency or disaster with regards to the county, city, village, or town in which the damaged or destroyed tangible personal property was located and the total value of all of the claimant's damaged or destroyed tangible personal property exceeds \$4,999. If the amount of the credit exceeds the individual's tax liability, the state will issue a check to the individual for the excess amount.

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.** 20.835 (2) (cb)^x of the statutes is created to read:

2 20.835 (2) (cb) *Damaged tangible personal property credit.* A sum sufficient to
3 make the payments under s. 71.07 (5d).

4 **SECTION 2.** 71.07 (5d)^x of the statutes is created to read:

5 **71.07 (5d) DAMAGED TANGIBLE PERSONAL PROPERTY CREDIT.** (a) *Definition.* In this
6 subsection, “claimant” means an individual who files a claim under this subsection.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the tax imposed under s. 71.02 the amount
9 of any sales taxes imposed under s. 77.52 and use taxes imposed under s. 77.53 that
10 the claimant paid in the taxable year to which the claim relates on the purchase of
11 tangible personal property that the claimant purchased to replace tangible personal
12 property that was damaged or destroyed by fire, flood, or natural disaster. If the
13 allowable amount of the claim under this subsection exceeds the income taxes
14 otherwise due on the claimant’s income, the amount of the claim that is not used to
15 offset those taxes shall be certified by the department of revenue to the department
16 of administration for payment by check, share draft, or other draft drawn from the
17 appropriation under s. 20.835 (2) (cb).

18 (c) *Limitations.* 1. No claim may be allowed under this subsection unless all
19 of the following apply:

20 a. The governor declares a state of emergency or disaster with regards to the
21 county, city, village, or town in which the damaged or destroyed tangible personal
22 property was located.

23 b. The total value of all of the claimant’s damaged or destroyed tangible
24 personal property exceeds \$4,999 and the claimant submits evidence of such value
25 with the return.

1 2. For a claimant who is a nonresident or part-year resident of this state and
 2 who is a single person or a married person filing a separate return, multiply the
 3 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
 4 which is the individual's Wisconsin adjusted gross income and the denominator of
 5 which is the individual's federal adjusted gross income. If a claimant is married and
 6 files a joint return, and if the claimant or the claimant's spouse, or both, are
 7 nonresidents or part-year residents of this state, multiply the credit for which the
 8 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's
 9 joint Wisconsin adjusted gross income and the denominator of which is the couple's
 10 joint federal adjusted gross income.

11 3. No credit may be allowed under this subsection unless it is claimed within
 12 the time period under s. 71.75 (2).

13 (d) *Administration.* Subsection (5m) (d), as it applies to the credit under that
 14 subsection, applies to the credit under this subsection.

15 **SECTION 3.** 71.08 (1) (intro.) of the statutes ^{is amended to read:} ^{was affected by 2003 Wisconsin Act 99,}

16 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
 17 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
 18 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), ^{(5d),}
 19 (6), ^{(6s),} and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ^{and,}
 20 (3) ^{and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) and (3) and}
 21 subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the ^{and (3t)}
 22 tax under this section, there is imposed on that natural person, married couple filing
 23 jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax
 24 computed as follows:

25 **SECTION 4.** 71.10 (4) (i) of the statutes ^X is amended to read:

PWF

15
16
17
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19
20
21
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23
24



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

February 24, 2004

MEMORANDUM

To: Senator Welch

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

Joseph T. Kreye, Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **SB-449** (LRB 03-1842/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 23, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on SB 449: Tax Credit for Sales Tax Paid to Replace Items Lost by Natural Disaster

Because the proposed credit is refundable, the credit should be allowed against the tax imposed under sec. 71.08, Wis. Stats., as well as under sec. 71.02. This can be accomplished by adding a reference to sec. 71.08 to line 8 of page 2 of the bill.

The Department suggests requiring the claimant to claim the credit within a certain time period after the fire, flood, or natural disaster. Without a time limit a person could claim the credit for purchases made years after the natural disaster, claiming that the items purchased were replacing property lost in the disaster.

This bill requires part-year residents and nonresidents to prorate the credit, which is unusual in that the basis of the credit is Wisconsin sales and use tax paid. Generally, credits based entirely on amounts allocated to Wisconsin are not prorated. For example, the married couple credit is based on wages earned in Wisconsin and is not prorated, while the itemized deduction credit is based on amounts paid both in and outside Wisconsin and is required to be prorated.

It appears that individuals who purchase tangible personal property to replace personal property destroyed in a natural disaster when the property was insured against the disaster may still claim the credit. If this is not the intent, a provision could be added under proposed sec. 71.07 (5d)(c), that would disallow the credit for purchased replacement items covered by insurance.

If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.



Steven R. Miller
Chief

State of Wisconsin

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March 1, 2004

MEMORANDUM

To: Senator Welch

From: Joseph T. Kreye, Legislative Attorney, (608) 266-2263
Marc E. Shovers, Senior Legislative Attorney, (608) 266-0129

Subject: Technical Memorandum to **SB-449** (LRB 03-1842/1)

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

DOR's first point may be valid, and the department has raised this issue in the past. No other refundable individual income tax credit is offset against the alternative minimum tax, however, and we're not sure it would be advisable to make the change DOR recommends without making a similar change to all existing refundable credits.

DOR's second point may be valid. Although the bill, as drafted, would not allow a claim for a refund later than 4 years after the taxable year for which the claim is made, you may want to consider requiring a taxpayer to claim the credit within a shorter time period. For example, you could require the taxpayer to claim the credit for items purchased in the taxable year in which the taxpayer is claiming the credit. This is a policy issue for you to decide.

DOR's third point may be valid. As DOR points out, because the basis for the credit is expenses paid for items used or purchased in this state, it may not be necessary to prorate the credit. This too is a policy issue for you to decide.

Finally, DOR's fourth point is correct. You may wish to disallow the credit for the purchase price of replacement items for which the claimant was reimbursed by insurance proceeds.

If you wish to discuss this memorandum or the necessity of preparing an amendment, please contact one of us.

MEMORANDUM

February 23, 2004

TO: Marc Shovers
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

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If you have questions regarding this technical memorandum, please contact Karyn Kriz at 261-8984.