

2005 DRAFTING REQUEST

Bill

Received: 10/21/2004

Received By: jkreye

Wanted: As time permits

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: bill

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - miscellaneous
Tax, Individual - income credit
Tax, Other - sales
Tax, Property - exemption

Extra Copies:

Submit via email: YES

Requester's email: Rep.Black@legis.state.wi.us

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

Pre Topic:

No specific pre topic given

Topic:

Homeowner's property tax credit; school property income tax credit; imposing sales and use tax on furnishing luxury boxes; combined corporate reporting; computer property tax exemption

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 10/22/2004	wjackson 10/30/2004	chaugen 11/08/2004	_____	lemery 11/08/2004		S&L Tax
	jkreye 11/22/2004	wjackson 11/08/2004		_____			
		wjackson 11/22/2004		_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1			jfrantze 11/22/2004	_____	mbarman 11/22/2004	sbasford 01/05/2005	S&L Tax

FE Sent For: *at intro*
1/26

<END>

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Table with 8 columns: Vers., Drafted, Reviewed, Typed, Proofed, Submitted, Jacketed, Required. Row 1: /P1, jkreye, wjackson, chaugen, [blank], lemery, [blank], S&L. Row 2: 10/22/2004, 10/30/2004, 11/08/2004, [blank], 11/08/2004, [blank], Tax.

FE Sent For:

Handwritten notes: 1 Nly 11/22, J 11/22, J/RS 11/22

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/P1	jkreye	PIWLJ 11/4	CH 11-8	CH RS 11-9			

FE Sent For:

<END>

Kreye, Joseph

From: Graf, Bill
Sent: Thursday, October 21, 2004 9:28 AM
To: Kreye, Joseph
Subject: drafting request

Please draft a bill the same as 2003-04 AB 756 except for the following changes:

1. The provisions on corporate income taxation of related entities should be deleted.
2. Add the provisions of Assembly Amendment 5 to 2003 AB 413, requiring combined reporting for corporate income tax purposes.
3. Make the clarifications suggested in the January 27, 2004 technical memorandum to you from Dennis Collier regarding the tax on luxury boxes and administration of the tax exemption for computers that applies to businesses with less than \$5,000,000 in gross receipts.

Please let me know if you need copies of the technical memorandum or amendment referenced above, or feel free to contact Rep. Black for further information. Thank you.

Bill Graf

Research Assistant

State Representative

Spencer Black

214 North, State Capitol / P.O. Box 8952
Madison, WI 53708-8952
(608) 266-7521

MEMORANDUM

January 27, 2004

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Dennis Collier
Department of Revenue

SUBJECT: Technical Memorandum on AB 756 Imposing Sales Tax on Leases of Luxury Boxes, Sky Boxes and Club Seats at Sports Facilities

We have the following concerns about the sales tax portion of the bill:

1. The bill limits the imposition of the tax to leases. However, the boxes or seats are not necessarily leased. Language that imposes the tax on the furnishing of luxury boxes, sky boxes, and club seats for dues, fees or other considerations would clarify which transactions are taxable under the bill.
2. The bill does not specify the type of sports facility to which the sales tax applies. The term "sports facility" is defined in s. 167.32 (1) (f); reference to this definition would clarify the sports facilities to which the sales tax would apply.
3. The terms "luxury box", "sky box" and "club seat" are industry terms. Defining the terms may avoid confusion regarding the taxability of the items.
4. The date of sales entered into that are subject to the tax should be specified. It is recommended that the tax be imposed on sales entered into on or after the effective date of the act, so that sales subject to the tax are clearly identified.

We are also concerned about the exemption for computers that would only apply to businesses with less than \$5,000,000 in gross receipts. It may prove impossible to administer the provision. Local assessors will need information on business revenues. The bill states that the Department of Revenue (DOR) shall determine business revenues for purposes of the exemption. If DOR uses income tax records to determine this, revenues for calendar 2004 revenues would not be available until tax forms are fully processed, which would be late in 2005. In order to administer the exemption, we suggest that the language specify that the revenue determination be based upon revenue from the second prior year; thus, for 2005, revenue for 2003 would be used to determine eligibility for the exemption. There is also a question concerning the legality of DOR releasing revenue data to local assessors. Such a release could be a violation of taxpayer confidentiality. In addition, the provisions may violate the uniformity in taxation clause of the Wisconsin Constitution since it would base a tax exemption on the gross income of a property owner.

Finally, the state constitution permits net lottery funds to be distributed as a credit without regard to the uniformity in taxation clause. Thus, the credit can be paid to homeowners only. This provision does not

extend to general fund (GPR) money. The \$469,305,000 of school levies credits that get shifted to the proposed homeowner's credit is GPR funding. As a result, the distribution of these funds through a property tax credit may be subject to the uniformity in taxation clause of the state constitution.

If you have questions regarding the sales tax portion of this technical memorandum, please contact Blair Kruger at 266-1310 or bkruger@dor.state.wi.us. If you have questions regarding the other portions of this technical memorandum, please contact Daniel Huegel at 266-5705 or dhuegel@dor.state.wi.us.

0576/P1

SOON

D-N

in 10-21-04

LPS:
Please proof
amended stats.
w/ Folio

2003 ASSEMBLY BILL 756

January 21, 2004 - Introduced by Representatives BLACK, TURNER, POCAN, BERCEAU, SINICKI, POPE-ROBERTS, PLOUFF, ZEPNICK, J. LEHMAN and MILLER, cosponsored by Senators CARPENTER and CHVALA. Referred to Committee on Ways and Means.

re-gen

1 AN ACT *to repeal* 20.566 (2) (am), 20.835 (3) (b), 79.10 (1) (b), 79.10 (1) (e), 79.10
2 (4), 79.10 (7m) (a), 79.10 (9) (b), 79.10 (9) (c) 2. and 79.14; *to renumber and*
3 *amend* 71.26 (2) (a) and 79.10 (9) (c) 1.; *to amend* 20.566 (2) (r), 20.835 (3) (q),
4 20.835 (3) (s), 70.11 (39), 71.07 (9) (b) 5., 74.09 (3) (b) 3., 79.10 (1m) (b), 79.10
5 (2), 79.10 (5), 79.10 (6m) (a), 79.10 (7m) (b) (title), 79.10 (7m) (b) 1., 79.10 (9)
6 (bm), 79.10 (10) (title), 79.10 (10) (a), 79.10 (10) (bm) 1., 79.10 (10) (bm) 2., 79.10
7 (11) (title), 79.10 (11) (b), 79.10 (11) (c), 79.11 (3) (b) and 565.02 (7); and *to create*
8 20.835 (3) (bm), 71.01 (5p), 71.01 (9b), 71.05 (6) (a) 21., 71.22 (3m), 71.22 (9b),
9 71.26 (2) (a) 6., 71.34 (1) (j), 71.42 (1p), 71.42 (4m), 71.45 (2) (a) 16., 71.738 (3m),
10 71.80 (23) and 77.52 (2) (a) 13. of the statutes; **relating to:** creating a
11 homeowner's property tax credit, eliminating the school levy property tax
12 credit and the lottery and gaming property tax credit, ~~including payments to~~
13 ~~related entities to compute~~ income tax and franchise tax liability, increasing the
14 amount of the school property income tax credit, imposing the sales tax on the

combined tax reporting for

purpose

ASSEMBLY BILL 756

1 lease of luxury boxes at sports facilities, claiming the property tax exemption
2 for computers, and making an appropriation.

Analysis by the Legislative Reference Bureau

Property tax credits

Under current law, a property owner in this state may claim a school levy property tax credit from the state based on the fair market value of the property and the property taxes levied by school districts located in the municipality in which the property is located. The amount of the credit is paid from the general fund.

Under current law, a person who owns property in this state that the person uses as a principal dwelling may claim the lottery and gaming property tax credit as a credit against the property taxes imposed on his or her principal dwelling. The amount of the credit is based on the fair market value of the person's principal dwelling and is paid from the lottery fund.

This bill eliminates the school levy property tax credit and the lottery and gaming property tax credit and creates a homeowner's property tax credit. Under the bill, a person who owns property in this state that the person uses as a principal dwelling may claim the homeowner's credit as a credit against the property taxes imposed on his or her principal dwelling. The amount of the credit is based on the fair market value of the person's principal dwelling, up to a fair market value of \$60,000. The credit is paid from both the general fund, in an amount equal to the amount paid for the school levy property tax credit, and from the lottery fund.

School property tax income tax credit

Under current law, a person may claim an income tax credit based on the amount of property taxes or rent paid on the person's principal dwelling. The amount of the credit is equal to 12 percent of the first \$2,500 of property taxes or rent paid on the person's principal dwelling, or, for married persons filing separately, 12 percent of the first \$1,250 of property taxes or rent paid on the person's principal dwelling. Under the bill, with regard to rent paid on a person's principal dwelling, the amount of the credit is equal to 16 percent of the first \$2,500 of rent paid on the person's principal dwelling, or, for married persons filing separately, 16 percent of the first \$1,250 of rent paid on the person's principal dwelling.

Subheading

Related entities Combined reporting (B) (I)

For purposes of calculating a taxpayer's state income tax or franchise tax liability, this bill requires a taxpayer to add the following amounts to the taxpayer's federal taxable income: any amount that the taxpayer deducted or excluded under the Internal Revenue Code for management and service fees, interest expenses and costs, intangible expenses and costs, and any other expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

The bill also authorizes the Department of Revenue (DOR) to allow the tax consequences of a transaction, as asserted by a taxpayer, even if DOR initially

The bill requires, generally, that ^{business} entities under common ownership submit combined tax reports to the department of revenue (DOR) for the purpose of determining the ^{income} and ^{franchise} tax liability of the entities.

ASSEMBLY BILL 756

disallows the consequences by asserting the sham transaction doctrine or a related doctrine, if a taxpayer meets certain conditions. The conditions include the taxpayer's ability to demonstrate that the transaction had a valid, good faith, business purpose other than tax avoidance; that the business purpose is commensurate with the transaction's tax benefit; and that the transaction had economic substance apart from the taxpayer's asserted tax benefit.

Also under the bill, a taxpayer is not required to add to the taxpayer's federal taxable income certain expenses or costs as specified in the bill if a number of conditions apply. The conditions include the following:

1. The transaction to which the expenses and costs apply did not have as its principal purpose tax avoidance.
2. The related entity to whom the taxpayer paid the expenses or costs paid, accrued, or incurred such amounts to a person who is not a related entity.
3. The related entity was subject to tax on its net income, and a measure of the tax included the expenses or costs received from the taxpayer.

Computers

Under current law, computers and certain computer-related equipment are exempt from the property tax imposed on the real and personal property of a business. Under the bill, no property owner may claim the property tax exemption for computers and computer-related equipment unless the property owner is a business that has less than \$5,000,000 in gross receipts, as determined by DOR, in the year in which the property owner claims the exemption.

Luxury boxes

Under the bill, the ~~lease~~ ^{provisioning} of luxury boxes, sky boxes, and club seats at a sports facility is subject to a sales tax at the rate of 5 percent of the gross receipts from the ~~lease~~ of such boxes and seats.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** 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. 20.566 (2) (am) of the statutes is repealed.
- 2 SECTION 2. 20.566 (2) (r) of the statutes is amended to read:
- 3 20.566 (2) (r) ~~Lottery and gaming~~ Homeowner's tax credit administration.
- 4 From the lottery fund, the amounts in the schedule for the administration of the
- 5 lottery and gaming homeowner's tax credit.
- 6 SECTION 3. 20.835 (3) (b) of the statutes is repealed.

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ASSEMBLY BILL 756

1 SECTION 4. 20.835 (3) (bm) of the statutes is created to read:

2 20.835 (3) (bm) *Homeowner's tax credit; general fund.* A sum sufficient to make
3 the payments under s. 79.10 (5) and (6m) (c), not to exceed \$469,305,000.

4 SECTION 5. 20.835 (3) (q) of the statutes is amended to read:

5 20.835 (3) (q) ~~Lottery and gaming~~ Homeowner's tax credit. From the lottery
6 fund, a sum sufficient to make the payments under s. 79.10 (5) and (6m) (c), not
7 including the amount paid under s. 20.835 (3) (bm). par.

8 SECTION 6. 20.835 (3) (s) of the statutes is amended to read:

9 20.835 (3) (s) ~~Lottery and gaming~~ Homeowner's tax credit; late applications.
10 From the lottery fund, a sum sufficient to make payments for the ~~lottery and gaming~~
11 homeowner's tax credit under s. 79.10 (10) (bm) and (bn).

that is 2 years prior to the year

INDEX 4-11

12 SECTION 7. 70.11 (39) of the statutes is amended to read:

13 70.11 (39) COMPUTERS. If the owner of the property fulfills the requirements
14 under s. 70.35 and if the property owner is a business that has less than \$5,000,000
15 in gross receipts, as determined by the department of revenue, in the year in which
16 the owner claims an exemption under this subsection, mainframe computers,
17 minicomputers, personal computers, networked personal computers, servers,
18 terminals, monitors, disk drives, electronic peripheral equipment, tape drives,
19 printers, basic operational programs, systems software, and prewritten software.
20 The exemption under this subsection does not apply to custom software, fax
21 machines, copiers, equipment with embedded computerized components or
22 telephone systems, including equipment that is used to provide telecommunications
23 services, as defined in s. 76.80 (3). For the purposes of s. 79.095, the exemption under
24 this subsection does not apply to property that is otherwise exempt under this
25 chapter.

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1 **SECTION 8.** 71.01 (5p) of the statutes is created to read:

2 71.01 **(5p)** "Intangible expenses and costs" includes expenses, losses, and costs
3 for, related to, or directly or indirectly in connection with the direct or indirect
4 acquisition of, use of, maintenance or management of, ownership of, sale of, exchange
5 of, or any other direct or indirect disposition of intangible property to the extent that
6 such expenses, losses, and costs are allowed as deductions or costs to determine
7 federal taxable income under the Internal Revenue Code. For purposes of this
8 subsection, "expenses, losses, and costs" include losses related to or incurred directly
9 or indirectly in connection with factoring transactions and discounting transactions;
10 royalty, patent, technical, and copyright fees; licensing fees; and other similar
11 expenses and costs.

12 **SECTION 9.** 71.01 (9b) of the statutes is created to read:

13 71.01 **(9b)** "Related entity" means any person related to a taxpayer as provided
14 under section 267, 318, or 1563 of the Internal Revenue Code during all or a portion
15 of the taxpayer's taxable year.

16 **SECTION 10.** 71.05 (6) (a) 21. of the statutes is created to read:

17 71.05 **(6)** (a) 21. Any amount deducted or excluded under the Internal Revenue
18 Code for management and service fees, interest expenses and costs, intangible
19 expenses and costs, and any other expenses and costs directly or indirectly paid,
20 accrued, or incurred to, or in connection directly or indirectly with one or more direct
21 or indirect transactions with, one or more related entities.

22 **SECTION 11.** 71.07 (9) (b) 5. of the statutes is amended to read:

23 71.07 **(9)** (b) 5. For taxable years beginning after December 31, 1999, subject
24 to the limitations under this subsection a claimant may claim as a credit against, but
25 not to exceed the amount of, taxes under s. 71.02, ~~12%~~ 12 percent of the first \$2,500

ASSEMBLY BILL 756

SECTION 11

1 of property taxes or 16 percent of the first \$2,500 of rent constituting property taxes,
2 ~~or except that a married person filing separately may claim 12%~~ 12 percent of the
3 first \$1,250 of property taxes or 16 percent of the first \$1,250 of rent constituting
4 property taxes of a married person filing separately.

5 ~~SECTION 12. 71.22 (3m) of the statutes is created to read:~~

6 ~~71.22 (3m) "Intangible expenses and costs" includes expenses, losses, and costs~~
7 ~~for, related to, or directly or indirectly in connection with the direct or indirect~~
8 ~~acquisition of, use of, maintenance or management of, ownership of, sale of, exchange~~
9 ~~of, or any other direct or indirect disposition of intangible property to the extent that~~
10 ~~such expenses, losses, and costs are allowed as deductions or costs to determine~~
11 ~~federal taxable income under the Internal Revenue Code. For purposes of this~~
12 ~~subsection, "expenses, losses, and costs" include losses related to or incurred directly~~
13 ~~or indirectly in connection with factoring transactions and discounting transactions;~~
14 ~~royalty, patent, technical, and copyright fees; licensing fees; and other similar~~
15 ~~expenses and costs.~~

16 ~~SECTION 13. 71.22 (9b) of the statutes is created to read:~~

17 ~~71.22 (9b) "Related entity" means any person related to a taxpayer as provided~~
18 ~~under section 267, 318, or 1563 of the Internal Revenue Code during all or a portion~~
19 ~~of the taxpayer's taxable year.~~

20 ~~SECTION 14. 71.26 (2) (a) of the statutes is renumbered 71.26 (2) (a) (intro.) and~~
21 ~~amended to read:~~

22 ~~71.26 (2) (a) Corporations in general. (intro.) The "net income" of a corporation~~
23 ~~means the gross income as computed under the Internal Revenue Code as modified~~
24 ~~under sub. (3) minus and modified as follows:~~

25 ~~1. Minus the amount of recapture under s. 71.28 (1di) plus.~~

ASSEMBLY BILL 756

1 2. Plus the amount of credit computed under s. 71.28 (1), (3), (4), and (5) ~~plus.~~

2 3. Plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di),
3 (1dj), (1dL), (1dm), (1ds), (1dx), and (3g) and not passed through by a partnership,
4 limited liability company, or tax-option corporation that has added that amount to
5 the partnership's, limited liability company's, or tax-option corporation's income
6 under s. 71.21 (4) or 71.34 (1) (g) ~~plus.~~

7 4. Plus the amount of losses from the sale or other disposition of assets the gain
8 from which would be wholly exempt income, as defined in sub. (3) (L), if the assets
9 were sold or otherwise disposed of at a gain and minus deductions, as computed
10 under the Internal Revenue Code as modified under sub. (3), ~~plus.~~

11 5. Plus or minus, as appropriate, an amount equal to the difference between
12 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
13 otherwise disposed of in a taxable transaction during the taxable year, except as
14 provided in par. (b) and s. 71.45 (2) and (5).

15 **SECTION 15.** 71.26 (2) (a) 6. of the statutes is created to read:

16 71.26 (2) (a) 6. Plus any amount deducted or excluded under the Internal
17 Revenue Code for management and service fees, interest expenses and costs,
18 intangible expenses and costs, and any other expenses and costs directly or indirectly
19 paid, accrued, or incurred to, or in connection directly or indirectly with one or more
20 direct or indirect transactions with, one or more related entities.

21 **SECTION 16.** 71.34 (1) (j) of the statutes is created to read:

22 71.34 (1) (j) An addition shall be made for any amount deducted or excluded
23 under the Internal Revenue Code for management and service fees, interest
24 expenses and costs, intangible expenses and costs, and any other expenses and costs
25 directly or indirectly paid, accrued, or incurred to, or in connection directly or

ASSEMBLY BILL 756**SECTION 16**

1 indirectly with one or more direct or indirect transactions with, one or more related
2 entities.

3 **SECTION 17.** 71.42 (1p) of the statutes is created to read:

4 71.42 (1p) "Intangible expenses and costs" includes expenses, losses, and costs
5 for, related to, or directly or indirectly in connection with the direct or indirect
6 acquisition of, use of, maintenance or management of, ownership of, sale of, exchange
7 of, or any other direct or indirect disposition of intangible property to the extent that
8 such expenses, losses, and costs are allowed as deductions or costs to determine
9 federal taxable income under the Internal Revenue Code. For purposes of this
10 subsection, "expenses, losses, and costs" include losses related to or incurred directly
11 or indirectly in connection with factoring transactions and discounting transactions;
12 royalty, patent, technical, and copyright fees; licensing fees; and other similar
13 expenses and costs.

14 **SECTION 18.** 71.42 (4m) of the statutes is created to read:

15 71.42 (4m) "Related entity" means any person related to a taxpayer as provided
16 under section 267, 318, or 1563 of the Internal Revenue Code during all or a portion
17 of the taxpayer's taxable year.

18 **SECTION 19.** 71.45 (2) (a) 16. of the statutes is created to read:

19 71.45 (2) (a) 16. By adding to federal taxable income any amount deducted or
20 excluded under the Internal Revenue Code for management and service fees,
21 interest expenses and costs, intangible expenses and costs, and any other expenses
22 and costs directly or indirectly paid, accrued, or incurred to, or in connection directly
23 or indirectly with one or more direct or indirect transactions with, one or more
24 related entities.

25 **SECTION 20.** 71.738 (3m) of the statutes is created to read:

ASSEMBLY BILL 756

1 71.738 **(3m)** “Related entity” means any person related to a taxpayer as
2 provided under section 267, 318, or 1563 of the Internal Revenue Code during all or
3 a portion of the taxpayer’s taxable year.

4 **SECTION 21.** 71.80 (23) of the statutes is created to read:

5 71.80 **(23)** TRANSACTIONS. (a) Subject to par. (b), if the department asserts the
6 sham transaction doctrine, or any other related tax doctrine, to disallow the tax
7 consequences, as asserted by the taxpayer, of a transaction, the department may
8 allow the tax consequences, as asserted by the taxpayer, of the transaction, if the
9 taxpayer demonstrates by clear and convincing evidence that the transaction had a
10 valid, good faith, business purpose other than tax avoidance and had economic
11 substance apart from any tax benefit asserted by the taxpayer.

12 (b) For all instances in which the department disallows the tax consequences,
13 as asserted by the taxpayer, of a transaction, the department may allow the tax
14 consequences, as asserted by the taxpayer, of the transaction, if the taxpayer
15 demonstrates by clear and convincing evidence that the transaction’s nontaxable
16 business purpose, as asserted by the taxpayer, is commensurate with the
17 transaction’s tax benefit, as asserted by the taxpayer.

18 (c) The adjustments under ss. 71.05 (6) (a) 21., 71.26 (2) (a) 6., 71.34 (1) (j), and
19 71.45 (2) (a) 16. shall not apply to any expenses or costs if all of the following apply
20 to the expenses or costs:

21 1. The transaction to which the expenses or costs are related did not have tax
22 avoidance as its principal purpose.

23 2. The related entity to whom the taxpayer paid interest expenses or costs,
24 intangible expenses, or management or service fees during the taxable year directly
25 or indirectly paid, accrued, or incurred such amounts to a person who is not a related

ASSEMBLY BILL 756

SECTION 21

1 entity. For purposes of this subdivision, “interest” means interest on a debt for which
2 the taxpayer is the guarantor, if the interest rate is the market rate in effect at the
3 time of the debt’s origination, but excludes interest that is paid in connection with
4 any debt that is incurred to acquire the taxpayer’s assets or stock under section 368
5 of the Internal Revenue Code.

6 3. The related entity was subject to tax on its net income in this state, or any
7 state, U.S. possession, or foreign country; a measure of the tax paid included the
8 interest income, intangible income, or management or service fees received from the
9 taxpayer; and the tax rate applied to the interest income, intangible income, or
10 management or service fees was not less than 3 percentage points below the tax rate
11 that would have applied under s. 71.27. For purposes of this subdivision, “any state,
12 U.S. possession, or foreign country” does not include any state, U.S. possession, or
13 foreign country under the laws of which the taxpayer files or could have elected to
14 file with the related entity, or the related entity files or could have elected to file with
15 another entity, a combined income tax report or return, a consolidated income tax
16 report or return, or any other report or return that is due because of the imposition
17 of a tax that is measured on or by income, if the report of return results in eliminating
18 the tax effects of transactions directly or indirectly between either the taxpayer and
19 the related entity or between the related entity and another entity.

20 **SECTION 22.** 74.09 (3) (b) 3. of the statutes is amended to read:

21 74.09 (3) (b) 3. The tax levied on the property by the school district where the
22 property is located ~~minus the credit under s. 79.10 (4) allocable to the property,~~ for
23 the previous year and the current year, and the percentage change in that net tax
24 between those years.

25 **SECTION 23.** 77.52 (2) (a) 13. of the statutes is created to read:

INSERT
10-19

ASSEMBLY BILL 756

furnishing

1
2

77.52 (2) (a) 13. The ~~lease~~ of luxury boxes, sky boxes, and club seats at a sports facility, if the sale of admissions to sporting events at the facility is subject to the tax imposed under this section.

as defined in 0167032(1)(F) for dues, fees, or other considerations

4

SECTION 24. 79.10 (1) (b) of the statutes is repealed.

5

SECTION 25. 79.10 (1) (e) of the statutes is repealed.

6

SECTION 26. 79.10 (1m) (b) of the statutes is amended to read:

7

79.10 (1m) (b) Counties and municipalities shall submit to the department of revenue all data related to the ~~lottery and gaming~~ homeowner's tax credit and requested by the department of revenue.

10

SECTION 27. 79.10 (2) of the statutes is amended to read:

11

79.10 (2) NOTICE TO MUNICIPALITIES. On or before December 1 of the year preceding the distribution under sub. (7m) (a), the department of revenue shall notify the clerk of each town, village, and city of the estimated fair market value, as determined under sub. (11), to be used to calculate the ~~lottery and gaming~~ homeowner's tax credit under sub. (5) and ~~of the amount to be distributed to it under sub. (7m) (a) on the following 4th Monday in July. The anticipated receipt of such distribution shall not be taken into consideration in determining the tax rate of the municipality but shall be applied as tax credits.~~

19

SECTION 28. 79.10 (4) of the statutes is repealed.

20

SECTION 29. 79.10 (5) of the statutes is amended to read:

21

79.10 (5) ~~LOTTERY AND GAMING~~ HOMEOWNER'S TAX CREDIT. Each municipality shall receive, from the ~~appropriation~~ appropriations under s. 20.835 (3) (bm) and (q), an amount determined by multiplying the school tax rate by the estimated fair market value, ~~not exceeding the value as~~ as determined under sub. (11), but not to exceed \$60,000. of every principal dwelling that is located in the municipality and

25

1 for which a claim for the credit under sub. (9) (bm) is made by the owner of the
2 principal dwelling.

3 SECTION 30. 79.10 (6m) (a) of the statutes is amended to read:

4 79.10 (6m) (a) Except as provided in pars. (b) and (c), if the department of
5 administration or the department of revenue determines by October 1 of the year of
6 any distribution under ~~subs. (4) and~~ sub. (5) that there was an overpayment or
7 underpayment made in that year's distribution by the department of administration
8 to municipalities, as determined under ~~subs. (4) and~~ sub. (5), because of an error by
9 the department of administration, the department of revenue or any municipality,
10 the overpayment or underpayment shall be corrected as provided in this paragraph.
11 Any overpayment shall be corrected by reducing the subsequent year's distribution,
12 as determined under ~~subs. (4) and~~ sub. (5), by an amount equal to the amount of the
13 overpayment. Any underpayment shall be corrected by increasing the subsequent
14 year's distribution, as determined under ~~subs. (4) and~~ sub. (5), by an amount equal
15 to the amount of the underpayment. Corrections shall be made in the distributions
16 to all municipalities affected by the error. Corrections shall be without interest.

17 SECTION 31. 79.10 (7m) (a) of the statutes is repealed.

18 SECTION 32. 79.10 (7m) (b) (title) of the statutes is amended to read:

19 79.10 (7m) (b) (title) *Lottery and gaming Homeowner's tax credit.*

20 SECTION 33. 79.10 (7m) (b) 1. of the statutes is amended to read:

21 79.10 (7m) (b) 1. The amount determined under sub. (5) with respect to claims
22 filed for which the town, village, or city has furnished notice under sub. (1m) by
23 March 1 shall be distributed from the ~~appropriation~~ appropriations under s. 20.835
24 (3) (bm) and (q) by the department of administration on the 4th Monday in March.

25 SECTION 34. 79.10 (9) (b) of the statutes is repealed.

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1 SECTION 35. 79.10 (9) (bm) of the statutes is amended to read:

2 79.10 (9) (bm) ~~Lottery and gaming~~ Homeowner's tax credit. Except as provided
3 in ss. 79.175 and 79.18, a ~~lottery and gaming~~ homeowner's tax credit shall be
4 allocated to every principal dwelling for which a credit is claimed under sub. (10) in
5 an amount determined by multiplying the estimated fair market value of the
6 principal dwelling, ~~not exceeding the value as~~ determined under sub. (11), but not
7 to exceed \$60,000, by the school tax rate.

8 SECTION 36. 79.10 (9) (c) 1. of the statutes is renumbered 79.10 (9) (c) and
9 amended to read:

10 79.10 (9) (c) The ~~lottery and gaming~~ homeowner's tax credit under par. (bm)
11 shall reduce the property taxes otherwise payable on property that is eligible for that
12 credit and if the property owner completes the information required under sub. (10)
13 (a) or (b).

14 SECTION 37. 79.10 (9) (c) 2. of the statutes is repealed.

15 SECTION 38. 79.10 (10) (title) of the statutes is amended to read:

16 79.10 (10) (title) CLAIMING THE ~~LOTTERY AND GAMING~~ HOMEOWNER'S TAX CREDIT.

17 Please
Fix
Comp. → SECTION 39. 79.10 (10) (a) of the statutes ~~as affected by 2003 Wisconsin Act 33,~~

18 is amended to read:

19 79.10 (10) (a) Beginning with property taxes levied in ~~1999~~ 2004, the owner of
20 a principal dwelling may claim the credit under sub. (9) (bm) by applying for the
21 credit on a form prescribed by the department of revenue. A claimant shall attest
22 that, as of the certification date, the claimant is an owner of property and that such
23 property is used by the owner in the manner specified under sub. (1) (dm). The
24 certification date is January 1 of the year in which the property taxes are levied. The
25 claimant shall file the application for the ~~lottery and gaming~~ homeowner's tax credit

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SECTION 39

1 with the treasurer of the county in which the property is located or, if the property
2 is located in a city that collects taxes under s. 74.87, with the treasurer of the city in
3 which the property is located. Subject to review by the department of revenue, a
4 treasurer who receives a completed application shall direct that the property
5 described in the application be identified on the next tax roll as property for which
6 the owner is entitled to receive a ~~lottery and gaming~~ homeowner's tax credit. A claim
7 that is made under this paragraph is valid for as long as the property is eligible for
8 the credit under sub. (9) (bm).

9 Please
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Comp.

9 → SECTION 40. 79.10 (10) (bm) 1. of the statutes, as affected by 2003 Wisconsin
10 Act 33, is amended to read:

11 79.10 (10) (bm) 1. A person who is eligible for a credit under sub. (9) (bm) but
12 whose property tax bill does not reflect the credit may claim the credit by applying
13 to the treasurer of the taxation district in which the property is located for the credit
14 under par. (a) by January 31 following the issuance of the person's property tax bill.
15 The treasurer shall compute the amount of the credit; subtract the amount of the
16 credit from the person's property tax bill; notify the person of the reduced amount of
17 the property taxes due; issue a refund to the person if the person has paid the
18 property taxes in full; and enter the person's property on the next tax roll as property
19 that qualifies for a ~~lottery and gaming~~ homeowner's tax credit. Claims made under
20 this subdivision are valid for as long as the property is eligible for the credit under
21 sub. (9) (bm).

22 Please
Fix
Comp.

22 → SECTION 41. 79.10 (10) (bm) 2. of the statutes, as affected by 2003 Wisconsin
23 Act 33, is amended to read:

24 79.10 (10) (bm) 2. A person who may apply for a credit under subd. 1. but who
25 does not timely apply for the credit under subd. 1. may apply to the department of

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1 revenue no later than October 1 following the issuance of the person's property tax
2 bill. Subject to review by the department, the department shall compute the amount
3 of the credit; issue a check to the person in the amount of the credit; and notify the
4 treasurer of the county in which the person's property is located or the treasurer of
5 the taxation district in which the person's property is located, if the taxation district
6 collects taxes under s. 74.87. The treasurer shall enter the person's property on the
7 next tax roll as property that qualifies for a ~~lottery and gaming~~ homeowner's tax
8 credit. Claims made under this subdivision are valid for as long as the property is
9 eligible for the credit under sub. (9) (bm).

10 SECTION 42. 79.10 (11) (title) of the statutes is amended to read:

11 79.10 (11) (title) ~~LOTTERY AND GAMING~~ HOMEOWNER'S TAX CREDIT ESTIMATED FAIR
12 MARKET VALUE.

13 Please
Fix CMM SECTION 43. 79.10 (11) (b) of the statutes, ~~as affected by 2003 Wisconsin Act 33,~~
14 is amended to read:

15 79.10 (11) (b) Before October 16, the department of administration shall
16 determine the total funds available for distribution under the ~~lottery and gaming~~
17 homeowner's tax credit in the following year and shall inform the joint committee on
18 finance of that total. Total funds available for distribution shall be \$469,305,000
19 from s. 20.835 (3) (bm) plus all moneys projected to be transferred to the lottery fund
20 under ss. 20.455 (2) (g) and 20.505 (8) (am), (g) and (jm) and all existing and projected
21 lottery proceeds and interest for the fiscal year of the distribution, less the amount
22 estimated to be expended under ss. 20.455 (2) (r), 20.566 (2) (r), and 20.835 (2) (q) and
23 less the required reserve under s. 20.003 (5). The joint committee on finance may
24 revise the total amount to be distributed if it does so at a meeting that takes place
25 before November 1. If the joint committee on finance does not schedule a meeting

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1 to take place before November 1, the total determined by the department of
2 administration shall be the total amount estimated to be distributed under the
3 ~~lottery and gaming~~ homeowner's tax credit in the following year.

4 **SECTION 44.** 79.10 (11) (c) [✓] of the statutes is amended to read:

5 79.10 **(11)** (c) Before November 1, the department of administration shall
6 inform the department of revenue of the total amount available for distribution
7 under the ~~lottery and gaming~~ homeowner's tax credit in the following year. Before
8 December 1, the department of revenue shall calculate, to the nearest \$100, the
9 estimated fair market value necessary to distribute the total amount available for
10 distribution under the ~~lottery and gaming~~ homeowner's tax credit in the following
11 year.

12 **SECTION 45.** 79.11 (3) (b) [✓] of the statutes is amended to read:

13 79.11 **(3)** (b) Notwithstanding ss. 74.11 (2) (b) and 74.12 (2) (b), the ~~lottery and~~
14 ~~gaming~~ homeowner's tax credit shall be deducted in its entirety from the first
15 installment. This paragraph does not apply to the payment of taxes in installments
16 under s. 74.87.

17 **SECTION 46.** 79.14 [✓] of the statutes is repealed.

18 **SECTION 47.** 565.02 (7) [✓] of the statutes is amended to read:

19 565.02 **(7)** Not later than March 1 of each year, the department shall submit
20 to the joint committee on finance a report that includes an estimate for that fiscal
21 year and for the subsequent fiscal year of the gross revenues from the sale of lottery
22 tickets and lottery shares, the total amount paid as prizes and the prize payout ratio
23 for each type of lottery game offered, and an evaluation of the effect of prize payout
24 ratios of lottery games on lottery sales, lottery operating costs and on maximizing the
25 revenue available for the ~~lottery and gaming property~~ homeowner's tax credit. If,

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1 within 14 working days after the date on which the committee receives the report,
 2 the cochairpersons of the committee notify the department that the committee has
 3 scheduled a meeting for the purpose of reviewing the department's proposed prize
 4 payouts, the department may proceed with its plans for the prize payouts for the
 5 subsequent fiscal year only upon approval of the plans by the committee. If the
 6 cochairpersons of the committee do not notify the department within 14 working
 7 days after the date on which the committee receives the report that the committee
 8 has scheduled a meeting for the purpose of reviewing the department's proposed
 9 prize payouts, the department's plans for the prize payouts for the subsequent fiscal
 10 year are considered approved by the committee.

SECTION 48. Nonstatutory provisions.

12 (1) HOMEOWNER'S TAX CREDIT. An application for the lottery and gaming credit
 13 under section 79.10 (10) of the statutes, ²⁰⁰³~~2001~~ stats., shall be considered to be an
 14 application for the homeowner's tax credit under section 79.10 (10) of the statutes,
 15 as affected by this act, and any valid claim for the lottery and gaming credit under
 16 section 79.10 (10) of the statutes, ²⁰⁰³~~2001~~ stats., shall be considered to be a valid claim
 17 for the homeowner's tax credit under section 79.10 (10) of the statutes, as affected
 18 by this act.

SECTION 49. Initial applicability.

19
 20 (1) HOMEOWNER'S TAX CREDIT. The treatment of sections 20.566 (2) (am) and (r),
 21 20.835 (3) (b), (bm), (q), and (s), 74.09 (3) (b) 3., 79.10 (1) (b) and (e), (1m) (b), (2), (4),
 22 (5), (6m) (a), (7m) (a) and (b) (title) and 1., (9) (b), (bm), and (c) 1. and 2., (10) (title)
 23 and (a), (bm) 1. and 2., and (11) (title), (b), and (c), 79.11 (3) (b), 79.14, and 565.02 (7)
 24 of the statutes first applies to property taxes levied in ~~2004~~ ²⁰⁰⁵.

41.41 (10)(c) 1.

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1 (2) COMPUTERS. The treatment of sections 70.11 (39) of the statutes first applies
2 to the property tax assessments as of January 1, 2004, 2005

3 (3) SCHOOL PROPERTY INCOME TAX CREDIT. The treatment of section 71.07 (9) (b)
4 5. of the statutes first applies to taxable years beginning on January 1, 2004, 2005

5 (4) RELATED ENTITIES. The treatment of sections 71.01 (5p) and (9b), 71.05 (6)
6 (a) 21., 71.22 (3m) and (9b), 71.26 (2) (a) (intro.) and 6., 71.34 (1) (j), 71.42 (1p) and
7 (4m), 71.45 (2) (a) 16., 71.738 (3m), and 71.80 (23) of the statutes first applies to
8 taxable years beginning on January 1, 2004.

9 ~~SECTION 50. Effective date.~~

10 No (B) → (1) LUXURY BOXES. The treatment of sections 77.52 (2) (a) 13. of the statutes
11 takes effect on the first day of the 2nd month beginning after publication.

12 (END)

first applies to transactions entered into on the effective date of this subsection

Please change from EFF date to init. app.

(INSERT 18-9)

Insert 4-11

Section #. 41.41 (10) (c) 1. of the statutes is amended to read:

41.41 (10) (c) 1. Except as provided in par. (d), on or before each January 31, the department shall pay to the treasurer of each taxation district specified in par. (b), with respect to all land in the Kickapoo valley reserve and all land acquired by the board on or before January 1 of the preceding year, an amount determined by multiplying the estimated value of the land equated to the average level of assessment in the taxation district by the aggregate gross general property tax rate, exclusive of the rate that applies under s. 70.58 and without respect to the school levy tax credit under s. 79.10, that would apply to the land in that taxation district for that year if it were taxable.

History: 1993 a. 349; 1995 a. 27 ss. 279, 9116 (5); Stats. 1995 s. 41.41; 1995 a. 201, 216, 225; 1997 a. 194; 1999 a. 9; 2001 a. 103.

end of insert