



# State of Wisconsin

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STEPHEN R. MILLER  
CHIEF

February 21, 2005

## MEMORANDUM

**To:** Representative Black

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

**Subject:** Technical Memorandum to **2005 AB-44** (LRB 05-0576/1)

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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 10, 2005

**TO:** Joseph Kreye  
Marc Shovers  
Legislative Reference Bureau

**FROM:** Rebecca Boldt  
Department of Revenue

**SUBJECT:** Technical Memorandum on AB 44 Regarding Homeowner's Property Tax Credit, School Property Tax Income Credit, Imposing Sales and Use Tax on Furnishing Luxury Boxes, Payments to Related Entities, Computer Property Tax Exemption

The Department has the following concerns with AB 44:

### Corporate and Individual Income Taxes

The bill creates two sections numbered 71.26 (2) (a) 6.; the second one should be numbered 71.26 (2) (a) 7. Similarly, a reference to the section in the newly created section 71.80 (23) (c) should be renumbered to subd. 7.

The second word "of" that appear on page 11, line 9, in sec. 71.80 (3) (c), should be changed to "or".

The initial applicability date for the school property tax credit and the addition for related entities would be a problem if the bill were enacted late in the year after forms were sent to the printer. The initial applicability language should provide that if the bill were enacted after July 31, 2005, the provisions would first apply to taxable years beginning on January 1, 2006.

### Sales and Use Taxes:

If sales taxes on luxury boxes, sky boxes, and club seats first apply to transactions entered into on the effective date of the subsection, it may be as many as 5 or 10 years, depending on the term of the leases, before the tax applies. Even if the lease is extended or renewed, it is unclear that payments on the lease would be taxable, because it is unclear whether such an extension or renewal would be a "transaction". Arguably, the transaction was entered into at the beginning of the lease and the extension or renewal is the continuing rental of the luxury box, sky box, or club seat. Thus, some luxury boxes, sky boxes, and club seats would never be taxed.

To avoid this, the author may wish to revise the initial applicability for the sales tax on luxury boxes, sky boxes, and club seats as follows:

(5) LUXURY BOXES. The treatment of section 77.52 (2) (a) 13. first applies to the furnishing of luxury boxes, sky boxes, and club seats on the effective date of this subsection, if payment for such luxury boxes, sky boxes, or club seats is made on or after the effective date of this subsection.

If the sales tax on luxury boxes, sky boxes, and club seats first applies to transactions entered into on the effective date of this subsection, there may be insufficient time to notify retailers of the tax, depending on the date of publication. Changing the effective date of sec. 77.52 (2) (a) 13. to the first day of the second month beginning after publication would allow sufficient time to notify sellers of the tax.

#### Property Tax Exemption for Computers

The bill effectively repeals the property tax exemption on computers owned by a business with gross receipts of \$5 million or more. The bill directs that gross receipts will be "as determined by the department of revenue". Information on gross receipts would probably be obtained from tax returns filed by businesses with the Department. By law, information on tax returns filed with the Department is generally considered confidential and cannot be shared with local assessors.

If you have questions regarding the income tax or data confidentiality aspects of this memorandum, please contact Pamela Walgren at 266-7817. If you have questions regarding the sales tax aspects of this memorandum, please contact Blair Kruger at 266-1310.

Cc: Representative Spencer Black