

2005 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB668)

Received: **09/20/2005**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau 7-7597**

By/Representing: **Faith Russell**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax, Individual - income credit**

Extra Copies:

Submit via email: **YES**

Requester's email: **faith.russell@legis.state.wi.us**

Carbon copy (CC:) to: **sgateshe@dor.state.wi.us**
Pam.Shannon@legis.state.wi.us
anthony.hardie@dva.state.wi.us
kirstin.nelson@dor.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Expanding eligibility for the veterans and surviving spouses property tax credit

Instructions:

See Attached. Incorporate changes from DOR tech memo, regarding a claim filed by married joint filers; allow a credit of 50% of property taxes paid to be claimed by each spouse if the married couple files separate returns.

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>
/?				_____			State
/1	mshovers 09/21/2005	kfollett 09/21/2005	chaugen 09/21/2005	_____	lnorthro 09/21/2005	lnorthro 09/21/2005	

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anthony.hardie@dva.state.wi.us
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[Signature]

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/?	mshovers	1/1 kjf 9/29	ch 9-21	ch 9-21 DWB			

FE Sent For:


<END>

Marc Shovers
4-6948

MEMORANDUM

September 19, 2005

TO: Marc Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt 
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 668 – Veterans And Surviving Spouses Property Tax Credit

This bill provides that "property taxes" are the part of the taxes that reflect the ownership percentage of the claimant, except that this limitation does not apply to spouses who own the principle dwelling jointly or as marital property.

However, even with the above exception, sec. 71.07(6e)(a)5 provides that property taxes are "real and personal property taxes...paid by a claimant on the claimant's principle dwelling." If property taxes are paid from marital funds, each spouse is considered to have paid half of the taxes. In order to allow 100% of the taxes, the first sentence of the above section should read as follows: "Property taxes" means real and personal property taxes exclusive of special assessments, delinquent interest, and charges for service, paid by a claimant and the claimant's spouse if filing a joint return, on the claimant's principle dwelling...

For consistency, the insert to sec. 71.07(6e)(a)5 should be changed to "except that this limitation does not apply to spouses who file a joint return."

It is unclear how this bill will affect married persons filing a separate return. "Claimant" is the eligible veteran. If property taxes are paid from marital funds, each spouse is considered to have paid half of the taxes. Should the veteran then be allowed 50% of the taxes on a separate return? The amendment appears to allow 100% of the taxes to the veteran even if the spouses file separate returns and each paid half of the taxes. Separate returns will always be a problem as the spouse will want to claim, for example, the school property tax credit, which would mean the veteran could not claim the credit (sec. 71.07(6e)(c)2). A possible solution would be to limit the credit for disabled veterans to married persons who file a joint return. This could be done by creating sec. 71.07(6e)(c)3 to read: "No credit is allowable to married persons who file a separate return."

The effective date will be a problem if the bill is enacted after tax forms have been printed. The department would have to know by October 17 in order to reflect this proposed legislation on the 2005 tax forms.

If you have any questions regarding this technical memorandum, please contact Kirstin Nelson at (608) 261-8984.

cc: Representative Loeffelholz

Kirstin.nelson@

dor.state.wi.us

Shovers, Marc

From: Nelson, Kirstin B
Sent: Wednesday, September 21, 2005 3:13 PM
To: Shovers, Marc
Subject: FW: Unedited preliminary language for ASA to AB 668

Marc,

Sorry--a correction on my previous email. Please see below.

"on the claimant's- eligible veteran's or unremarried surviving spouse's principal dwelling in this state during the taxable year for which the credit under this subsection is claimed,..."

Kirstin

From: Stellick, Robert C, Jr.
Sent: Wednesday, September 21, 2005 3:00 PM
To: Nelson, Kirstin B
Cc: Hanson, Jeffrey W; Stock, Marcella L
Subject: RE: Unedited preliminary language for ASA to AB 668

If the (a)5 change is limited to "eligible veteran's principal dwelling", what is the Department to do with the "eligible unremarried surviving spouse's principal dwelling" taxes? The change to the language should be "eligible veteran's" and "eligible unremarried surviving spouse's principal dwelling", or better, "eligible veteran's or unremarried surviving spouse's principal dwelling".

From: Nelson, Kirstin B
Sent: Wednesday, September 21, 2005 2:34 PM
To: Shovers, Marc
Cc: Stellick, Robert C, Jr.; Hanson, Jeffrey W; Stock, Marcella L
Subject: RE: Unedited preliminary language for ASA to AB 668

Marc,

I talked with my colleagues and we feel like our comments were addressed with the first sentence you added below. The second sentence that begins "The credit that each claimant may claim...." may not be necessary.

Also, to be consistent, you might consider changing the word "claimant's" in the following phrase in section 71.07(6e)(a)5:

"on the ~~claimant's~~ eligible veteran's principal dwelling in this state during the taxable year for which the credit under this subsection is claimed,..."

Hope this is helpful. Let me know what you decide.

Kirstin

From: Shovers, Marc [<mailto:Marc.Shovers@legis.state.wi.us>]
Sent: Wednesday, September 21, 2005 1:24 PM
To: Nelson, Kirstin B
Subject: RE: Unedited preliminary language for ASA to AB 668

Hi Kirsten:

What do you think of this language for s. 71.07 (6e) (c) 3.:

If an eligible veteran and an eligible spouse file separate returns, each spouse may claim a credit

under this subsection, based on their respective ownership interest in the eligible veteran's principal dwelling. The credit that each claimant may claim shall be calculated by multiplying 100 percent of the property taxes paid on the dwelling by the claimant's ownership percentage in the dwelling.

Marc

From: Nelson, Kirstin B
Sent: Wednesday, September 21, 2005 11:39 AM
To: Shovers, Marc
Subject: RE: Unedited preliminary language for ASA to AB 668

Marc,

Basically, DOR is ok with the draft language. But there are a couple things I wanted to point out:

- 1) typo on page 2 in section 71.07(6e)(a)5, the word "own" should be deleted from the underlined phrase
- 2) section 71.07(6e)c3. In cases where two spouses filing separately have two different houses, the non-veteran spouse could claim the credit on the house she lives in and the veteran could claim the credit on the house he lives in. To clarify, the word "claimant's" could be changed to "eligible veteran's" to ensure that the credit is only claimed on the veteran's principle dwelling.
- 3) section 71.07(6e)c3. A scenario could occur where a veteran owns 100% of his house but the veteran's estranged spouse, who no longer lives with him, could claim 50% of the veteran's credit.

Let me know if you have questions about any of these points.

Thanks.
Kirstin

From: Shovers, Marc [<mailto:Marc.Shovers@legis.state.wi.us>]
Sent: Wednesday, September 21, 2005 10:13 AM
To: Nelson, Kirstin B
Subject: Unedited preliminary language for ASA to AB 668

<< File: 05s0217/? >>

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-8522
e-mail: marc.shovers@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0217/?
MES...
kjf
RMC

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 668

today

gen

1 AN ACT ...; relating to: expanding eligibility for the veterans and surviving
2 spouses property tax credit.

Analysis by the Legislative Reference Bureau

Under current law as created in the the budget bill, 2005 Wisconsin Act 25, there exists a refundable individual income tax credit that may be claimed by certain U.S. armed forces veterans and by the unremarried surviving spouses of certain veterans or members of the national guard or reserves. The amount of the credit that may be claimed is the amount of property taxes paid by a claimant on the claimant's principal dwelling in the year to which the claim relates. Because the credit is refundable, if the amount of the credit for which the claimant is eligible exceeds the claimant's tax liability, the excess amount of the credit is paid to the claimant by check.

Under this bill, the eligibility for the credit is expanded to ensure that if a principal dwelling is owned jointly by spouses or as marital property, where only one of the spouses is an eligible veteran, the credit may be claimed for the full amount of taxes paid on the principal dwelling. Also under the bill, if an eligible veteran and his or her spouse file separate tax returns, each spouse may claim a percentage of the

credit based on his or her ownership interest in the eligible veteran's principal dwelling

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (6e) (a) 1. of the statutes, as created by 2005 Wisconsin Act
2 25, is amended to read:

3 71.07 (6e) (a) 1. "Claimant" means an eligible unremarried surviving spouse
4 ~~or~~, an eligible veteran, or an eligible spouse who files a claim under this subsection.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25.

5 **SECTION 2.** 71.07 (6e) (a) 1m. of the statutes is created to read:

6 71.07 (6e) (a) 1m. "Eligible spouse" means the spouse of an eligible veteran who
7 files a separate return.

8 **SECTION 3.** 71.07 (6e) (a) 5. of the statutes, as created by 2005 Wisconsin Act
9 25, is amended to read:

10 71.07 (6e) (a) 5. "Property taxes" means real and personal property taxes,
11 exclusive of special assessments, delinquent interest, and charges for service, paid
12 by a claimant, and the claimant's spouse if filing a joint return, on the claimant's
13 eligible veteran's or unremarried surviving spouse's principal dwelling in this state
14 during the taxable year for which credit under this subsection is claimed, less any
15 property taxes paid which are properly includable as a trade or business expense
16 under section 162 of the Internal Revenue Code. If the principal dwelling on which
17 the taxes were paid is owned by 2 or more persons or entities as joint tenants or
18 tenants in common or is owned by spouses as marital property, "property taxes" is
19 that part of property taxes paid that reflects the ownership percentage of the
20 claimant, except that this limitation does not apply to spouses who file a joint return.

1 If the principal dwelling is sold during the taxable year, the “property taxes” for the
2 seller and buyer shall be the amount of the tax prorated to each in the closing
3 agreement pertaining to the sale or, if not so provided for in the closing agreement,
4 the tax shall be prorated between the seller and buyer in proportion to months of
5 their respective ownership. “Property taxes” includes monthly parking permit fees
6 in respect to a principal dwelling collected under s. 66.0435 (3) (c).

7 **SECTION 4.** 71.07 (6e) (c) 3. of the statutes is created to read:

8 71.07 (6e) (c) 3. If an eligible veteran and an eligible spouse file separate
9 returns, each spouse may claim a credit under this subsection based on their
10 respective ownership interest in the eligible veteran’s principal dwelling.

11 **SECTION 5. Initial applicability.**

12 (1) This act first applies to taxable years beginning on January 1, 2005.

13

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs02174

MES:kjf:ch

Now

2
PMA

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2005 ASSEMBLY BILL 668

Wegen

- 1 AN ACT *to amend* 71.07 (6e) (a) 1. and 71.07 (6e) (a) 5.; and *to create* 71.07 (6e)
2 (a) 1m. and 71.07 (6e) (c) 3. of the statutes; **relating to:** expanding eligibility
3 for the veterans and surviving spouses property tax credit.

Analysis by the Legislative Reference Bureau

Under current law as created in the budget bill, 2005 Wisconsin Act 25, there exists a refundable individual income tax credit that may be claimed by certain U.S. armed forces veterans and by the unremarried surviving spouses of certain veterans or members of the national guard or reserves. The amount of the credit that may be claimed is the amount of property taxes paid by a claimant on the claimant's principal dwelling in the year to which the claim relates. Because the credit is refundable, if the amount of the credit for which the claimant is eligible exceeds the claimant's tax liability, the excess amount of the credit is paid to the claimant by check.

Under this bill, the eligibility for the credit is expanded to ensure that if a principal dwelling is owned jointly by spouses or as marital property, where only one of the spouses is an eligible veteran, the credit may be claimed for the full amount of taxes paid on the principal dwelling. Also under the bill, if an eligible veteran and his or her spouse file separate tax returns, each spouse may claim a percentage of the credit based on his or her ownership interest in the eligible veteran's principal dwelling.

X For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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2 25, is amended to read:

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4 ~~or~~, an eligible veteran, or an eligible spouse who files a claim under this subsection.

5 **SECTION 2.** 71.07 (6e) (a) 1m. of the statutes is created to read:

6 71.07 (6e) (a) 1m. “Eligible spouse” means the spouse of an eligible veteran who
7 files a separate return.

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11 exclusive of special assessments, delinquent interest, and charges for service, paid
12 by a claimant, and the claimant’s spouse if filing a joint return, on the claimant’s
13 eligible veteran’s or unremarried surviving spouse’s principal dwelling in this state
14 during the taxable year for which credit under this subsection is claimed, less any
15 property taxes paid which are properly includable as a trade or business expense
16 under section 162 of the Internal Revenue Code. If the principal dwelling on which
17 the taxes were paid is owned by 2 or more persons or entities as joint tenants or
18 tenants in common or is owned by spouses as marital property, “property taxes” is
19 that part of property taxes paid that reflects the ownership percentage of the
20 claimant, except that this limitation does not apply to spouses who file a joint return.

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6 **SECTION 4.** 71.07 (6e) (c) 3. of the statutes is created to read:

7 71.07 **(6e)** (c) 3. If an eligible veteran and an eligible spouse file separate
8 returns, each spouse may claim a credit under this subsection based on their
9 respective ownership interest in the eligible veteran’s principal dwelling.

10 **SECTION 5. Initial applicability.**

11 (1) This act first applies to taxable years beginning on January 1, 2005.

12 (END)