



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

March 17, 2005

MEMORANDUM

To: Representative Suder

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263
Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129
Christopher Sundberg, Legislative Attorney, (608) 266-9739

Subject: Technical Memorandum to **2005 AB-208** (LRB 05-1297/4)

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

March 15, 2005

TO: Joseph Kreye
Christopher Sundberg
Mark Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on AB: 208: Job Opportunity Building Development Zones

The Department has only just received this lengthy and complicated bill and has not had sufficient time to review it. As a result, the following technical comments should be considered preliminary and additional comments are likely after further review of the bill.

Comments that Apply to All Three Credits

- For businesses certified by Commerce for credit, it is unclear what it means to begin operations in a zone. For example, it is unclear if the sale of a business in a zone to another person would qualify the new owner as starting business operations.
- Since the credits are refundable, they should offset against the alternative minimum tax as well as the regular tax.
- Multiple credits appear to apply to the same purchases or jobs. For example, a business could be eligible for the credits under this bill for the same investments or jobs that qualify for other credits, including the dairy investment credit, the agricultural development zone credit, the technology zone credit, the development zone capital investment credit or the development zone credit.

Rural Enterprise Development Income Credit.

- The credit does not appear to require that businesses located in a zone be certified by the Department of Commerce before claiming the credit. It is unclear if that is the intent of the provision.
- The credit is based on 20% of the income that the individual derives from the operation of a trade or business. It is not clear if "income" is intended to be gross income or taxable income, or if it includes long-term capital gain income or ordinary income from the sale of business assets.

Rural Enterprise Capital gains Credit

- The credit is based on gain derived from the sale or exchange of property located in a zone used by a certified business. It is unclear if the credit applies to gain treated as ordinary income due to the recapture of depreciation or to the holding period, or if it only applies to gain treated as a long-term capital gain for federal purposes.
- It is unclear if the intent is for a person who rents property in a zone to a certified business to be allowed a credit on the sale of the property.
- In paragraph 71.07 (3e)(bm), the reference should be to paragraph (b) instead of paragraph (a).
- The credit is not allowed on gain that is excluded under section 71.05(6)(b)9 (the current law 60% exclusion). The credit should also not be allowed against the gain excluded under section 71.05(6)(b)25 (gain from sale to a related person).

Rural Enterprise Development Zone Jobs Credit

- For purposes of filing the supplemental claims, the bill does not specify that the property must be used in a certified trade or business, only that it be located in a zone or used or consumed primarily in a zone. If, for example, a person who owns a certified business in a zone buys a personal car or any other personal property that is used primarily in the zone, it appears that the individual would qualify for credit for the sales tax paid on the property even though its use is personal.
- For purposes of paragraphs 71.07 (3w)(bm)3, 71.28 (3w)(bm)3, and 71.47 (3w)(bm)3 it is unclear if the intent is to allow the credit each year on the adjusted basis of the property when it was first placed in service in the zone, or only for the year the property was first placed in service.
- For purposes of paragraph (bm)4, it is unclear what is included in the amount paid to upgrade or improve the skills of employees, or if it includes wages of a supervisor who trains new employees.
- The training expense portion of the credit is for amounts paid to train any full-time employee of the company, even if they are not located in a zone or in the state. It is unclear if that is the intent of the provision.

If you have any questions regarding this technical memorandum, please contact Pam Walgren at 266-7817.

cc: Representative Suder