



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

March 6, 2007

MEMORANDUM

To: Senator Roessler

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

Subject: Technical Memorandum to **2007 SB 45** (LRB 07-1827/1) **by DOR**

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 5, 2007

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on SB 45 – Health Care Information Technology Credit

Because the credit is claimed after alternative minimum tax, sec. 71.08(1) should be amended to include sec. 71.07(5k) in the list of credits not considered when computing alternative minimum tax.

If information technology hardware or software is used for maintaining medical records and for some other purpose such as maintaining research data or financial records, does this credit apply to 100% of the cost of the hardware or software? The language should clarify whether the intent is to require exclusive use.

Sections 71.07(5k)(b)2, 71.28(5k)(b)2, and 71.47(5k)(b)2 provide a credit for interest income from bonds issued by the Wisconsin Health and Educational Facilities Authority. This provision raises a number of concerns:

- For individuals, it adds complexity to the tax forms. The individual would have to include both the interest and the credit in income. In addition, for those allowed a standard deduction, the standard deduction would also decrease. Thus they would be taxed on the interest, the credit, and the result of the decreased standard deduction while being allowed a credit based only on the interest.
- The rationale for allowing the credit to nonresidents is unknown since interest from the bonds would not be taxable to Wisconsin. It may be better to not allow the credit to nonresidents and to allow it to part-year residents only based on interest income from the bonds that is taxable to Wisconsin.
- The bill requires a pass-through entity to compute the amount of credit allowable to its partners, members, or shareholders. Since these entities are not subject to tax, they do not have a tax rate and therefore cannot compute the amount of the credit. As a result, it is suggested that the language be amended to require the pass-through entity to inform its partners, members, or shareholders of their share of the interest income in proportion to

their ownership interest. The partner, member, or shareholder would then multiply the interest by its tax rate.

- Since this bill allows corporations to claim a credit for certain state interest income, while no credit is allowed for federal interest income, it could be subject to court challenges that may result in the invalidation of the corporate franchise tax. If the franchise tax is invalidated, it would result in a substantial revenue loss to the state.

As a result of the concerns explained above, it may be preferable if the interest income from the bonds were exempt from income tax, rather than allowed as a credit.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173 or via email at Michael.oakleaf@dor.state.wi.us.

cc: Sen. Roessler