



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

March 14, 2008

MEMORANDUM

To: Senator Kreitlow

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

Subject: Technical Memorandum to **2007 SB 510** (LRB-4036/1) 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, 2008

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on SB 510 – Combined Reporting, Allocation of Airport and Technology Zone Credits, and Regional Transit Authority Fee

Combined Reporting

The department recommends the following technical changes to the provisions of the bill related to combined reporting:

Statutory Section	Proposed Change
71.22(9)	Page 11, line 18: "...trust, <u>trustee</u> , trustee in bankruptcy, receiver, executor, administrator, assignee, or organization."
71.255(1)(h)	Page 13, line 18: "...and all <u>any</u> of the following apply:"
71.255(2)(a)2.a.	Page 16, line 3: "For purposes of this subd. 2.a., <u>the value of property that the member owns is the member's original cost and the value of property that the member rents...</u> "
71.255(2)(a)2.c.	Page 16, line 16: "...and the situs of a sale <u>in the United States</u> shall be determined in the same manner..."
71.255(2)(a)4.	Page 16, line 25: "...in section 952 of of the Internal Revenue Code..."
71.255(2)(a)6.	Page 17, line 13: "... federal law <u>United States Constitutional standards</u> ."
71.255(2)(a)7.	Page 17, line 20: "...determined by the Internal Revenue Code <u>without regard to federal treaties</u> and by its apportionment factor..."

Statutory Section	Proposed Change
71.255(2)(a)4., 71.255(2)(a)5., 71.255(2)(a)7., 71.255(2)(b), 71.255(4)(a)2.d.	Change “apportionment factors” to “apportionment factor.” There is only one apportionment factor (p. 111, line 5; p. 111, line 13; p. 111, line 23; p. 112, line 2; p. 114, line 5).
71.255(4)(a)5.	Page 20, line 23: “All dividends paid by one member to another are not included in the recipient’s income, if <u>to the extent the</u> dividends are paid out of the earnings and profits of the unitary business <u>included in the combined report</u> in the current taxable year or in an earlier taxable year.”
71.255(5)(a)	Add to page 23, line 18: “ <u>This includes the taxpayer member’s sales to another state as required by s. 71.25(9) when the taxpayer member is not engaged in business in the other state, notwithstanding that another member of the combined group is engaged in business in the other state.</u> ”
71.255(5)(b)	Remove paragraph (5)(b) and renumber paragraphs (5)(c) through (5)(f)
71.255(5)(d)	Page 24, line 4: “...in the income of the combined group in under sub. (4)...”
71.255(6)	Page 24, line 12: “...earned by one member of the combined group, but not completed, <u>fully</u> used by, or allowed...”
71.255(7)(a)	Page 24, line 16: “...combined group shall appoint <u>have</u> a sole designated agent.”
71.255(7)(b)	Page 25, line 4: “...members of the combined group and shall do all of the following. <u>These responsibilities include:</u> ”
71.255(8)(a)	Page 26, line 12: “...agent may elect to determine the portion of each that <u>that</u> member’s income to be included in the combined report either from a separate income statement from each that <u>that</u> member that is prepared by the member’s books and records for the months that are included in the combined group’s taxable year or by including in the combined report all of the income of each that <u>that</u> member...”

Regional Transit Authority

Section 77.9971, Wis. Stats. as amended by the bill, does not provide any requirements for the governing body of the Regional Transit Authority to notify the Department of Revenue prior to the increase of the fee. The fee could be increased without allowing sufficient time for the Department of Revenue to notify affected retailers of the increase and for retailers and the department to make the necessary system changes to properly account for the new rate.

Also, the increase should be effective only on the first day of a calendar quarter, because the returns that retailers file to report and pay the regional transit authority fee are filed on a quarterly basis. An effective date other than the first day of a quarter would require retailers to either report the fee in the incorrect period (for example, report June fees on the July to September return) or to file two returns for one quarter.

It is suggested that sec. 25 of the bill be revised to provide that any change in the fee shall be effective only on the first day of January, the first day of April, the first day of July or the first day

of October. It is also suggested that sec. 25 of the bill be revised to provide that governing body shall notify the Department of Revenue of any change in the fee at least 120 days prior to its effective date. (This suggestion is consistent with sec. 77.70, Wis. Stats. (2005-06), as it relates to the adoption of a county sales and use tax.)

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. In particular, the bill would result in one-time costs associated with significant programming changes. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	Chapter 20	Amount	FTE
one-time	s. 20.566 (3) (b)	\$300,000	

If you have any questions regarding this technical memorandum, please contact me at (608) 266-6785.

cc: Senator Kreitlow