



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

April 3, 2008

MEMORANDUM

To: Senator Hansen

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

Subject: Technical Memorandum to **2007 SB 538** (LRB-3870/3) 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 538 – Truck Engine Credit

The Department has the following technical concerns related to the bill:

1. The bill only provides a maximum credit for fiscal year 2008-09. Is the credit unlimited for subsequent fiscal years?
2. Under the bill, the Department of Revenue must allocate the credits to all eligible applicants in the order in which the applications are received and may adjust the amount of any credit if the total amount allocated would exceed any limit. The intent of this provision is unclear. This provision could be interpreted two different ways, both of which are problematic:
 - Does this mean the credits are to be allocated on a first-come first-serve basis? If yes, taxpayers who are fiscal year filers (and thus, do not apply for the credit until later in the year) may be unable to claim this credit.
 - Alternatively, does this mean the Department of Revenue has to allocate the maximum credit amount to all claims on a prorated basis? If yes, it is unclear how the Department could make such an allocation because the maximum amount is based on the state's June 30 fiscal year, while taxpayers may be claiming this credit for a calendar year or a taxable year that ends on a date other than June 30.

A better alternative to the existing language would be to provide that the Department of Commerce is responsible for allocating the credit based on the trucks owned by the taxpayer during the state's fiscal year ending June 30 (regardless of their taxable year), and that taxpayers may claim the credit as allocated by the Department of Commerce in whichever taxable year the credits are allocated to them.

3. Subsection (3x)(a)2. provides that the credit is based on diesel engines purchased after December 31, 2007, and before January 1, 2010. For fiscal filers, the purchase of an engine in 2008 is reported on a 2007 return. This is inconsistent with the fact that the credit is only available for taxable years beginning after December 31, 2007 (2008 returns). Subsection

(3x)(a)2. should be amended to apply "...for diesel engines purchased in taxable years beginning after December 31, 2007, and before January 1, 2010, and 0.2 grams per brake horsepower-hour for diesel engines purchased in taxable years beginning after December 31, 2010, and before January 1, 2013."

4. The bill is first effective for taxable years beginning on or after January 1, 2008. This effective date would be problematic if the bill is enacted late in 2008 after tax forms and instructions have been finalized. If enacted after July 31, 2008, this credit is recommended to first apply to taxable years beginning on or after January 1, 2009.

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

cc: Senator Hansen