



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

May 14, 2009

MEMORANDUM

To: Representative Pridemore

From: Marc E. Shovers, Managing Attorney, (608) 266-0129

Subject: Technical Memorandum to **2009 un-introduced** (LRB-1565/2) **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

May 12, 2009

TO: Marc Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on LRB 1565-2: Creating a Refundable Individual Income Tax Credit for Certain Married Couples

The Department has the following concerns related to the bill:

Wisconsin currently has a married couple credit (sec. 71.07(6)). This credit has been called the married couple credit on the Wisconsin income tax return for many years. To avoid confusion, it would be better if a different name were applied to this credit.

Nonresidents and part-year residents may not claim this credit. However, there will be situations in which one spouse is a nonresident (or part-year resident) and the other spouse is a full-year resident. As a result, a couple could qualify for the credit and have federal adjusted gross income greater than \$75,000 because a portion of the couple's income would not be taxable to Wisconsin and would not be included in Wisconsin adjusted gross income. This could be corrected by basing the limitation on federal adjusted gross income instead of Wisconsin adjusted gross income.

The intent is unclear for a married person who files as head of household. A "claimant" is defined as "a married individual who files a separate income tax return, or a married couple that files a joint income tax return." Does the credit apply only to married individuals whose filing status is married filing a separate return or does it also apply to married persons filing as head of household? This should be clarified.

If you have any questions regarding this technical memorandum, please contact Brad Caruth at (608) 261-8984 or bradley.caruth@revenue.wi.gov.