



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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STEPHEN R. MILLER
CHIEF

April 8, 2010

MEMORANDUM

To: Representative Hixson

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

Subject: Technical Memorandum to **2009 AB 908** (LRB-3420/1) 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

April 6, 2010

TO: Marc Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on AB 908 (LRB 3420/1) – Educational Interest Expenses Credit

The department has the following technical concerns with the bill:

- What happens if a student refinances a loan that was originally used to pay education expenses? Does interest paid on the new loan no longer qualify as the proceeds of that loan were not used to pay educational expenses? Federal law allows the student loan interest deduction for such refinanced indebtedness. See IRC sec. 221(d)(1) which provides that "Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan." Similar language could be used if it is the intent to allow interest on a refinanced loan for the Wisconsin credit.
- For federal tax purposes, only the person who is legally obligated to make the payment is entitled to the student loan interest deduction. For example, if the student is legally obligated to make the payment and the student's parent makes the payment, this is considered a gift from the parent to the student and only the student may claim the deduction for student loan interest. A similar provision for the Wisconsin credit would eliminate conflict as to who may claim the credit. For example, the definition of "claimant" could be refined to mean "an individual who is legally obligated to make payments on a student loan, the proceeds of which are used to pay educational interest expenses and who files a claim under this subsection".

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

cc: Representative Hixson