



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

January 12, 2010

MEMORANDUM

To: Senator Sullivan

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

Subject: Technical Memorandum to **2009 SB 439** (LRB-3916/2) 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

January 8, 2010

TO: Joe Kreye
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on Senate Bill 439 (LRB 3916/2) – Heroes Earning Assistance and IRA Conversion

The department has the following concerns regarding the draft:

- The draft lists various exclusions to P.L. 110-245. Many of these are unnecessary as they relate to provisions that would not affect Wisconsin even when adopted. Listing them only complicates the Wisconsin definition of the IRC. The provisions that do not need to be listed are:
 - Sec. 101 – relates to federal rebate
 - Sec. 103 – relates to mortgage revenue bonds
 - Sec. 104 – relates to death benefits
 - Sec. 105 – relates to federal income tax withholding
 - Sec. 106 – relates to reduction of military retired pay
 - Sec. 108 – relates to federal authority to disclose return information for veterans programs
 - Sec. 111 – relates to federal credit to employers for differential pay
 - Sec. 115 – relates to social security and unemployment taxes for benefits provided to volunteer firefighters and emergency medical responders.
 - Sec. 201, 202, 203, and 204 – Relates to the Social Security Act and supplemental security income
 - Sec. 302 – Relates to social security taxes and FICA taxes for U.S. employees of foreign subsidiaries
 - Sec. 303 – Relates to federal penalty for failure to file
 - Sec. 401 – Extends federal excise tax on failure to comply with mental health parity benefits
- This bill also excludes sec. 102 of P.L. 110-245. This section allows military personnel serving in a combat zone to elect to treat the income excluded because of service in a combat zone as earned income for purposes of the earned income credit (EIC). This would increase their EIC. It is the department's position that the Wisconsin EIC is a percentage of the amount of EIC reported on the federal return for the year. Therefore, for 2008 and 2009 members of the military have claimed the Wisconsin EIC based on the federal EIC. To specifically exclude sec. 102 of P.L. 110-245 now would mean the members of the military who claimed EIC based on combat zone income would have to amend their Wisconsin return to pay back all or a portion of the Wisconsin EIC previously claimed. This would be a hardship to members of the military. Is this the intent or should the exclusion for sec. 102 of P.L. 110-245 be eliminated?

In addition, this will also cause complexity in the future for service members stationed in combat zones who qualify for the EIC. They no longer will simply take a percentage of the federal EIC to determine the Wisconsin EIC. They will first have to recompute their federal EIC to eliminate the combat zone earnings and then take a percentage of the recomputed federal EIC to determine the Wisconsin EIC. This will have the effect of reducing the Wisconsin EIC that the service member would otherwise have been entitled to.

If you have any questions regarding this technical memorandum, please contact me at 266-6785 or at Rebecca.boldt@revenue.wi.gov.

cc: Senator Sullivan
Representative Molepske