

*STATE OF WISCONSIN**REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**2009 ASSEMBLY BILL 135*

[Introduced by Representatives Molepske Jr., Roys, Cullen, Nass, Berceau, Suder, Vos, Richards, Kaufert, Smith, Pope-Roberts, Bies, Zepnick, Kestell and Fields; cosponsored by Senators Lassa, Taylor, Kreitlow, Holperin, Darling, Lehman, Erpenbach, Plale, Grothman, Olsen and Kedzie.]

**General Nature of Proposal**

Prior to *2009 Wisconsin Act 28* (the budget act), state law provided a state income tax deduction for an amount paid into a college savings account or a college tuition and expenses program if the beneficiary of the account either is one of the following: the claimant; the claimant's child and the claimant's dependent for federal tax purposes; the claimant's grandchild; the claimant's great-grandchild; or the claimant's niece or nephew. Generally, prior to Act 28, and remaining under current law, the maximum amount of the deduction is \$3,000 per beneficiary by each contributor per year. In the case of a married couple, the total deduction per beneficiary by the married couple may not exceed \$3,000 per year.

The substantive provisions of *2009 Assembly Bill 135* were included in *2009 Wisconsin Act 28* (the budget act) and are now law. For beneficiaries who are a claimant's child, Assembly Bill 135 and the budget act eliminated the statutory provision that refers to a dependent for federal tax purposes. In addition, the act specified that the maximum amount of the deduction was \$1,500 per beneficiary per year by each contributor who is married and files separately. Finally, the act specified that, for divorced parents, the total deduction per beneficiary per year by the formerly married couple, may not exceed \$3,000 and the maximum amount that may be deducted by each former spouse is \$1,500, unless the divorce judgment specifies a different division of the \$3,000 maximum that may be claimed by each former spouse.

While this report relates to the bill as introduced, several Assembly amendments have been introduced. Since 2009 Wisconsin Act 28 adopted the substantive provisions of the bill, details on the amendments are provided below.

*Assembly Substitute Amendment 1* would eliminate the requirement that a contributor must be related to the beneficiary in order for account contributions to be deductible from the contributor's income. In addition, Assembly Substitute Amendment 1 eliminates the provision in current law that limits the total deduction to \$3,000 per year per beneficiary for a married couple filing a joint return.

*Assembly Substitute Amendment 2* would eliminate the requirement that a contributor must be related to the beneficiary in order for account contributions to be deductible from the contributor's income. In addition, Assembly Substitute Amendment 2 eliminates the provision in current law that limits the total deduction to \$3,000 per year for a married couple filing a joint return as well as the provisions relating to the limits for divorced spouses and married persons who file separately.

*Assembly Substitute Amendment 3* would eliminate the requirement that a contributor must be related to the beneficiary in order for account contributions to be deductible from the contributor's income. On October 29, 2009, the Assembly Committee on Colleges and Universities recommended adoption of Assembly Substitute Amendment 3 and passage of the bill, as amended, by votes of Ayes, 11; Noes, 0; and Absent, 1.

**Legality Involved**

There are no questions of legality involving the bill described in this report.

**Fiscal Effect Upon the State and Its Subdivisions**

The Department of Revenue describes Assembly Bill 135 as having an indeterminate fiscal effect, due to the absence of data on the number of divorced and legally separated tax filers who contribute to college savings accounts.

**Public Policy Involved**

The bill is good public policy.

02/16/10

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