



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

October 17, 2011

MEMORANDUM

To: Senator Fitzgerald

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

Subject: Technical Memorandum to **2011 SB 19 (Se1)** (LRB-3116/1) **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

October 12, 2011

TO: Marc Shovers
Legislative Reference Bureau

FROM: John Koskinen
Brad Caruth
Department of Revenue

SUBJECT: Technical Memorandum on Special Session Senate Bill 19: Exempting from Income Taxation Certain Employer-Paid Fringe Benefits for Mass Transit Expenses

The Department has the following concerns related to the bill:

The analysis states that the federal exemption (currently \$230 a month) applies for Wisconsin. Wisconsin follows the federal exemption, but limits the amount to \$120 a month. Qualifying individuals may currently receive a federal exemption and consequently be required to file a Wisconsin Schedule I in order to add back the amount exceeding \$120 per month.

The federal provision that increased the transit pass and commuter vehicle exclusion to \$230 a month expires on January 1, 2012. This bill is first effective for taxable years beginning in 2012. Unless federal law is amended later this year to extend the current exclusion, \$230 will be allowed for Wisconsin but only \$120 for federal. In that case, qualifying individuals may have a federal exemption and also a Wisconsin subtraction.

It is not clear if this Wisconsin subtraction is in addition to any amount allowed for federal purposes. If yes, this will allow a double benefit. It will also be confusing to taxpayers if a portion is excluded from income and an additional amount is subtracted for Wisconsin.

It would be simpler if Wisconsin would adopt changes to sec. 132(f) when this section is changed for federal tax purposes. Otherwise we will often have differences in the amount allowed for Wisconsin and federal purposes and questions as to the application of the Wisconsin subtraction.

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

cc: Senator Taylor