



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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STEPHEN R. MILLER  
CHIEF

January 17, 2014

## MEMORANDUM

**To:** Senator Gudex

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

Michael P. Gallagher, Legislative Attorney, (608) 267-7511

**Subject:** Technical Memorandum to **2013 SB 449** (LRB-3767/1) by **DOR**

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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

December 17, 2013

**TO:** Michael P. Gallagher  
Joseph Kreye  
Legislative Reference Bureau

**FROM:** Michael Wagner  
Michael Oakleaf  
Department of Revenue

**SUBJECT:** Technical Memorandum on SB 449 (LRB 3767/1) – Transfer of Economic Development Tax Credits

The Department has the following technical concerns with the above-referenced bill:

- The bill does not prescribe dates upon which WEDC must notify DOR of either the certification or revocation of the credits. In order for DOR to properly administer the credits, especially upon revocation, it is suggested to provide a date (for example, 30 days from certification or revocation) for WEDC to notify DOR. This will enable DOR to collect any revoked credits and prevent any further claiming of the credits
- A credit may be transferred only in exchange for consideration, other than money, in connection with the project or economic activity for which the tax credit was originally awarded. The terms "consideration other than money" and "in connection with the project or economic activity" are undefined. The author may wish to define these terms.
- The amount of consideration received by the transferor will be subject to both federal and state income tax; it is a capital gain from the sale of an asset that has no tax basis to the transferor. Likewise, the transferee will owe federal and state income tax on the capital gain that results when the transferee uses the full amount of the credit to offset tax liability over the lesser amount of tax basis obtained from purchasing the credit.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173 or via email at [Michael.oakleaf@revenue.wi.gov](mailto:Michael.oakleaf@revenue.wi.gov).

cc: Sen. Gudex