

**2015 DRAFTING REQUEST**

**Bill**

Received: **9/25/2014** Received By: **jkreye**  
Wanted: **As time permits** Same as LRB:  
For: **Administration-Budget** By/Representing: **Quinn**  
May Contact: Drafter: **jkreye**  
Subject: **Tax, Business - crp inc, fran** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email:  
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**  
**sbostatlanguage@webapps.wi.gov**

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**Pre Topic:**

DOA:.....Quinn, BB0040 -

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**Topic:**

Internal Revenue Code update

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 9/26/2014			_____			
/P1	jkreye 12/29/2014	csicilia 10/8/2014	jmurphy 10/8/2014	_____	sbasford 10/8/2014		State Tax
/P2	jkreye 1/21/2015	csicilia 1/11/2015	jmurphy 1/12/2015	_____	lparisi 1/12/2015		State Tax

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/P3		csicilia 1/23/2015	rschluet 1/23/2015	_____	lparisi 1/23/2015		State Tax

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*SA*  
*1-23-15*

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/P3 gjs  $\frac{1/23}{15}$

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*1/P2 cjs 11/11/15*

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*jkreye 10/12*

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Internal Revenue Code update

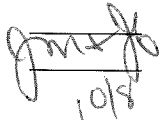
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1/?	jkreye	PI 9/5 10/8 14	PI 9/5 10/8 PI				

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/?	jkreye			_____			
				_____			

FE Sent For:

<END>

0275

**Kreye, Joseph**

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**From:** Hanaman, Cathlene  
**Sent:** Thursday, September 25, 2014 11:10 AM  
**To:** Kreye, Joseph; Shovers, Marc  
**Subject:** FW: Statutory Language Drafting Request - BB0040  
**Attachments:** Income tax - IRC update.pdf

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**From:** brian.quinn@wisconsin.gov [mailto:brian.quinn@wisconsin.gov]  
**Sent:** Thursday, September 25, 2014 11:06 AM  
**To:** Hanaman, Cathlene  
**Cc:** Ziegler, Paul - DOA; Quinn, Brian D - DOA; Connor, Christopher B - DOA  
**Subject:** Statutory Language Drafting Request - BB0040

Biennial Budget: 2015-17

Topic: Internal Revenue Code Update

Tracking Code: BB0040

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA  
Phone: (608) 266-1923  
E-mail: [brian.quinn@wisconsin.gov](mailto:brian.quinn@wisconsin.gov)

Agency Acronym: DOR

Agency Number: 566

Priority: High

Intent:

Update IRC references to include changes regarding cooperative and small employer charity pension plans.

Additionally, make general simplifications to IRC references in Wisconsin statutes.

Attachments: True

Please send completed drafts to [SBOStatlanguage@webapps.wi.gov](mailto:SBOStatlanguage@webapps.wi.gov)



**TITLE:** Internal Revenue Code Update

**DESCRIPTION OF CURRENT LAW AND PROBLEM**

The Wisconsin definition of the Internal Revenue Code (IRC) in secs. 71.01(6), 71.22(4) and (4m), 71.26(2)(b), 71.34(1g), and 71.42(2) has become very difficult to read and understand. There are many provisions of federal public laws that are listed as exclusions from the definition of the IRC that have expired or no longer apply due to changes made in the last legislative sessions. The definition of the IRC would be greatly clarified if these references were deleted for taxable years beginning after December 31, 2013.

In addition, the provisions could be clarified by dividing the section into subsections, paragraphs, etc., as appropriate, so that if one section goes onto another page of the statutes, it would be easier to read.

This clarification would not change the items that have been excluded by the legislature in the past. It would only eliminate those items that no longer affect the IRC for taxable years beginning after December 31, 2013.

Federal Public Law 113-97, *Cooperative and Small Employer Charity Pension Flexibility Act*, was enacted April 8, 2014. This public law amended IRC sec. 414 to provide a definition, rules and funding standards for a cooperative and small employer charity (CSEC) pension plan. The provision applies to taxable years beginning after December 31, 2013. This provision should be adopted for Wisconsin in order to keep the Wisconsin treatment of pension plans the same as the federal treatment.

**RECOMMENDATION FOR ACTION**

Clarify the definition of the IRC by deleting the items that have expired or no longer apply because of law changes and divide the provisions into subsections, paragraphs; etc., as appropriate.

Add the provision of P.L. 113-97 and P.L. 113-159 for taxable years beginning after December 31, 2013, relating to a definition, rules and funding standards for a cooperative and small employer charity pension plan and minimum funding requirements for employer defined benefit pension plans.

**IMPACT ON JOB CREATION**

None

**FISCAL EFFECT**

Minimal annual revenue gain.

**DRAFTING INSTRUCTIONS**

Attached.

**EFFECTIVE DATE**

Taxable years beginning on or after December 31, 2013

**INTERESTED/AFFECTED PARTIES**

Tax practitioners and cooperative and small employer charity pension plans.

**DOR CONTACT PERSON**

Diane Hardt  
(608) 266-6798

**PREPARED BY:**

Marcy Stock

## IRC DRAFTING INSTRUCTIONS

1. Delete secs. 71.01(6)(a), 71.22(4)(a) and (4m)(a), 71.26(2)(b)1., 71.34(1g)(a), and 71.42(2)(a).
2. Amend secs. 71.01(6)(i), 71.22(4)(i) and (4m)(i), 71.26(2)(b)9, 71.34(1g)(i), and 71.42(2)(i) to limit the provisions "For taxable years that begin after December 31, 2012, and before January 1, 2014,"
3. Create sec. 71.01(6)(j) to read as follows:

(j) For taxable years that begin after December 31, 2013, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2013, and as provided in subs. 1. through 3.

1. The following provisions of federal public laws are excluded from the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403(q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11(e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; sections 15303 and 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; section 1106 of P.L. 112-95; and sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240.

2. Amendments to the federal Internal Revenue Code enacted after December 31, 2013, do not apply except that the following provisions of federal public laws are included in the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013, and apply for Wisconsin purposes at the same time as for federal purposes: P.L. 113-97 and P.L. 113-159.

3. The definition of the Internal Revenue Code includes the provisions of public laws that have been adopted for Wisconsin that directly or indirectly affect the federal Internal Revenue Code as defined under this paragraph and apply for Wisconsin purposes at the same time as for federal purposes.

4. Create sec. 71.22(4)(j) to read as follows:

(j) For taxable years that begin after December 31, 2013, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2013, except as provided in sub. (4m) and ss. 71.26(2)(b) and (3), 71.34(1g), and 71.42(2), and as provided in subs. 1. through 3.

1. The following provisions of federal public laws are excluded from the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013: section

13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403(q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11(e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; sections 15303 and 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; section 1106 of P.L. 112-95; and sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240.

2. Amendments to the federal Internal Revenue Code enacted after December 31, 2013, do not apply except that the following provisions of federal public laws are included in the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013, and apply for Wisconsin purposes at the same time as for federal purposes: P.L. 113-97 and P.L. 113-159.

3. The definition of the Internal Revenue Code includes the provisions of public laws that have been adopted for Wisconsin that directly or indirectly affect the federal Internal Revenue Code as defined under this paragraph and apply for Wisconsin purposes at the same time as for federal purposes.

5. Create sec. 71.22(4m)(j) to read as follows:

(j) For taxable years that begin after December 31, 2013, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26(1)(a), means the federal Internal Revenue Code as amended to December 31, 2013, and as provided in subds. 1. through 3.

1. The following provisions of federal public laws are excluded from the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403(q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11(e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; sections 15303 and 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; section 1106 of P.L. 112-95; and sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240.

2. Amendments to the federal Internal Revenue Code enacted after December 31, 2013, do not apply except that the following provisions of federal public laws are included in the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013, and apply for Wisconsin purposes at the same time as for federal purposes: P.L. 113-97 and P.L. 113-159.

3. The definition of the Internal Revenue Code includes the provisions of public laws that have been adopted for Wisconsin that directly or indirectly affect the federal Internal

Revenue Code as defined under this paragraph and apply for Wisconsin purposes at the same time as for federal purposes.

6. Create sec. 71.26(2)(b)10 to read as follows:

10. For taxable years that begin after December 31, 2013, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code. "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2013, and as provided in subs. 10.a. through 10.c.

a. The Internal Revenue Code as amended to December 31, 2013, does not include the following provisions of federal public laws: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403(q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11(e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; sections 15303 and 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; section 1106 of P.L. 112-95; and sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240.

b. Amendments to the federal Internal Revenue Code enacted after December 31, 2013, do not apply except that the following provisions of federal public laws are included in the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013, and apply for Wisconsin purposes at the same time as for federal purposes: P.L. 113-97 and P.L. 113-159.

c. The definition of the Internal Revenue Code includes the provisions of public laws that have been adopted for Wisconsin that directly or indirectly affect the federal Internal Revenue Code as defined under this subdivision and apply for Wisconsin purposes at the same time as for federal purposes.

7. Create sec. 71.34(1g)(j) to read as follows:

(j) For taxable years that begin after December 31, 2013, for tax-option corporations, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2013, and as provided in subs. 1. through 4.

1. The following provisions of federal public laws are excluded from the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and

422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403(q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11(e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; sections 15303 and 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; section 1106 of P.L. 112-95; and sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240.

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3. The definition of the Internal Revenue Code includes the provisions of public laws that have been adopted for Wisconsin that directly or indirectly affect the federal Internal Revenue Code as defined under this paragraph and apply for Wisconsin purposes at the same time as for federal purposes.

4. Section 1366(f) of the Internal Revenue Code (relating to pass-through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375.

8. Create sec. 71.42(2)(j) to read as follows:

(j) For taxable years that begin after December 31, 2013, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2013, and as provided in subds. 1. through 4.

1. The following provisions of federal public laws are excluded from the definition of the Internal Revenue Code for taxable years that begin after December 31, 2013: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403(q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11(e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; sections 15303 and 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; section 1106 of P.L. 112-95; and sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240.

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3. The definition of the Internal Revenue Code includes the provisions of public laws that have been adopted for Wisconsin that directly or indirectly affect the federal Internal Revenue Code as defined under this paragraph and apply for Wisconsin purposes at the same time as for federal purposes.

4. "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code.