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MEMORANDUM

TO Senator Marklein

FROM Krista Pleviak, Legislative Attorney, (608) 266-7290

DATE January 18, 2017

SUBJECT Technical memorandum to **2017 SB 2 (LRB-1403/1) 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

January 17, 2017

TO: Krista Pleviak
Legislative Reference Bureau

FROM: Robert Schmidt
Michael Oakleaf
Department of Revenue

SUBJECT: Technical Memorandum on SB 2 (LRB 1403/1) – Due Dates for Certain Returns and Estimated Payments

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

- Under the bill, the due date for filing Wisconsin corporate income and franchise tax and partnership income tax returns is the date the entity is required to file for federal income tax purposes under the Internal Revenue Code. In order to avoid ambiguity in applying interest, penalties, and the statute of limitations, the language should refer to the unextended due date of the federal return.
- It would be preferable if the exception in s. 71.29(8)(a) would be for taxable years beginning in April rather than for taxable years ending in March, in order to avoid potential underpayment interest for taxpayers who have a short taxable year ending in March. For example, if a corporation files on a fiscal year basis beginning in September, the first estimated payment is due December 15 (the 15th day of the fourth month). If that corporation is acquired by another entity in March and thus has to file a short period return for the period of September through March, the first estimated payment due date under the bill should have been November 15 (the 15th day of the third month) instead of December 15. Changing the language of the bill to read that a taxpayer whose taxable year begins in April shall pay the installment in the 3rd month of the taxable year will eliminate this problem.

In order to address the two points above, we suggest the following amendments to the bill:

- **Section 1, line 6:** ...the partnership is required to file for federal income tax purposes, not including any extension, under the Internal...
- **Section 2, line 15:** ...required to file for federal income tax purposes, not including any extension, under the...
- **Section 3, line 5:** ...deadline, not including any extension, for filing...
- **Section 4, line 9:** ...whose taxable year ~~ends~~ begins in ~~March~~ April shall pay the installment in the 3rd month of the...

- **Section 5, line 19:** ...income tax purposes, not including any extension, under the internal revenue code Internal Revenue Code...
- **Section 6, line 8:** ...deadline, not including any extension, for filing...
- **Section 7, line 16:** ...the pass-through entity is required to file for federal income tax purposes, not including any extension, under the...
- **Section 11, line 6:** ...is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code...
- **Section 11, line 9:** ...date on which the corporation is required to file for federal income tax purposes, not including any extension,...
- **Section 12, line 20:** ...which the taxpayer is required to file for federal income tax purposes, not including any extension, under the...

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173 or via email at Michael.oakleaf@wisconsin.gov.

cc: Sen. Marklein