



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 17-019

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

a. In the rule summary’s section titled “Statutory authority”, the department might consider adding the following statutes, which explicitly authorize the department to promulgate the rules in the proposed order: ss. 71.05 (6) (b) 47m., 71.25 (10) (c), 71.26 (h), 71.45 (1) (c), 71.80 (1) (c), and 139.82 (3), Stats. [s. 1.02 (2m) (a), Manual.]

b. The department should consider identifying the legislation prompting the repeal in SECTION 15 of the proposed rule relating to higher education bonds.

2. Form, Style and Placement in Administrative Code

a. In both the introductory clause and the treatment clause for SECTION 10 of the proposed rule, the department should delete the reference to s. Tax 2.475 (2), and replace with references to s. Tax 2.475 (2) (title) and (intro.). [ss. 1.02 (1), 1.03 (3), and 1.05, Manual.]

b. In SECTION 5 of the proposed rule, in lieu of the proposed amendments to s. Tax 2.02 (4) (a) 4. and (9) (a)., the department could consider deleting the rules concerning the now-expired reciprocity agreement with Minnesota and instead creating a note describing the period and scope of the reciprocity agreement Wisconsin had with Minnesota. It appears a similar approach was taken in the third Note to s. Tax 2.02 (12), to describe Wisconsin’s now expired reciprocity agreement with Maryland. Providing this information in a note rather than in rule text may provide more consistency in the rule’s form, as the other subsections of s. Tax 2.02 pertain to reciprocity agreements currently in effect.

c. In the proposed language for s. Tax 2.955 (4) (f) in SECTION 12 of the proposed rule, the department should consider adding “or member” after “a Wisconsin resident partner” to maintain consistency with the style of referring to “partners or members” throughout the proposed language in SECTION 12.

4. Adequacy of References to Related Statutes, Rules and Forms

In SECTION 2 of the proposed rule, the department should add “Stats.” to the external references to ss. 13.94 and 71.91 (5), Stats. [s. 1.07 (2), Manual.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the first bullet point in the rule summary’s section titled “Plain language analysis”, the reference to “s.” should be changed to “ss.” because the citation refers to multiple rule sections. [s. 1.07 (2), Manual.]

b. In the rule summary’s section titled “Plain language analysis”, the department might consider adding further explanation regarding the revisions to ss. Tax 1.11 and 1.13 to identify the statutory basis for removing the reference to gift and inheritance taxes.

c. In SECTION 4 of the proposed rule, the department could consider inserting “tax” after “franchise”, because, prior to the deletion of the phrase “gift tax” as proposed, the terms “income” and sales” served as adjectives modifying the noun “tax”.

d. In SECTION 7 of the proposed rule, the department could consider clarifying the appropriate method for claiming a refund on and after January 1, 2015. Is the method described under s. Tax 2.12 (6) (b) intended to apply on and after January 1, 2015, in light of Form 1X no longer being in use?

e. To avoid ambiguity, the department could consider clarifying the phrase “that state” as used in s. Tax 2.955 (4) (e) 1. and 2. in SECTION 12 of the proposed rule. Unlike s. Tax 2.955 (4) (b), which clarifies that the phrase “that state” used in subsequent subdivisions refers to states that recognize an entity’s federal Subchapter S status, nothing in the proposed introductory language for s. Tax 2.955 (4) (e) clarifies the category to which “that state” refers. For example, the department could consider replacing “that state” with a more specific reference or include clarifying language in s. Tax 2.955 (4) (e) (intro.). [s. 1.01 (9) (c), Manual.]