

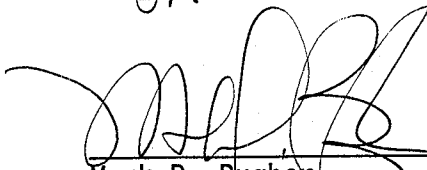
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records, certify that the annexed rule, relating to compensation of nonresident members of professional athletic teams, was duly approved and adopted by this department on March 27, 1996.

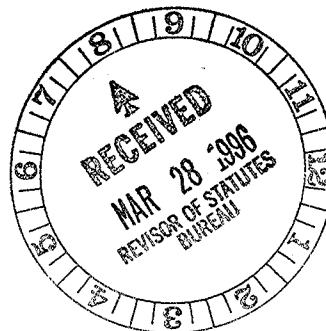
I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 27th day of March, 1996.



Mark D. Bugher
Secretary of Revenue

CKRUL/168



6-1-96

LRB or Bill No./Adm. Rule No.

Tax 2.31

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/94)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Allocating and Apportioning Income of Nonresident Athletes to Wisconsin

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:

- Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Tax 2.31 is created to provide a method to allocate and apportion the income of nonresident professional athletes to Wisconsin for tax purposes. The nonresident athlete's income is to be allocated to Wisconsin based on the number of days spent in Wisconsin performing as a member of a team relative to all days spent as a team member within and outside Wisconsin during a season.

The new rule represents the current practice of the Department of Revenue for allocating and apportioning the income of nonresident athletes to Wisconsin. Thus, there is no fiscal effect resulting from the new rule.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

Joe Malloy, 266-7817

Authorized Signature/Telephone No.

Yeang-Eng Braun
266-2700

Yeang Eng Braun

Date

10/16/95

ORDER OF THE DEPARTMENT OF REVENUE
CREATING RULES

The Wisconsin Department of Revenue adopts an order to create Tax 2.31, relating to compensation of nonresident members of professional athletic teams.

Analysis by the Department of Revenue

Statutory authority: s. 71.80(1)(c), Stats.

Statutes interpreted: ss. 71.02 and 71.04(1)(a) and (11), Stats.

SECTION 1. Tax 2.31 is created to provide a fair and equitable method of allocating and apportioning to Wisconsin, compensation received by nonresident members of professional athletic teams. The rule is based on the uniform regulations developed by the Federation of Tax Administrators (FTA) Task Force on Nonresident Income Tax Issues, and adopted by the FTA Membership in June 1994.

SECTION 1. Tax 2.31 is created to read:

Tax 2.31 COMPENSATION RECEIVED BY NONRESIDENT MEMBERS OF PROFESSIONAL ATHLETIC TEAMS. (ss. 71.02 and 71.04(1)(a) and (11), Stats.) (1) SCOPE. This section apportions and allocates to Wisconsin, in a fair and equitable manner, a nonresident employe's total compensation for services rendered in Wisconsin as a member of a professional athletic team. The section does not apply to employes domiciled in a state with which Wisconsin has a reciprocity agreement.

Note: Wisconsin has reciprocity agreements with Illinois, Indiana, Kentucky, Michigan and Minnesota.

(2) DEFINITIONS. In this section:

(a) Except as provided in subds. 1 and 2, "duty days" means all days during the taxable year from the beginning of a professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete and days on which a member of a professional athletic team renders a service for a team on a date outside the



time period. Rendering a service includes conducting training and rehabilitation activities at the facilities of the team. Included within duty days shall be game days, practice days, days spent at team meetings, promotional caravans and preseason training camps, days spent participating in instructional leagues, days spent at special games such as the "Pro Bowl" or an "all-star" game and days served with the team through all post-season games in which the team competes or is scheduled to compete. The following exceptions to this definition apply:

1. Duty days for any person who joins a professional athletic team after the beginning of the team's official pre-season training period shall begin on the day the person joins the team. Conversely, duty days for any person who leaves a professional athletic team before the last scheduled game shall end on the day the person leaves the team. Where a person switches professional athletic teams during a taxable year, separate duty day calculations shall be made for the periods the person was with each team.

2. Days for which a member of a professional athletic team is not compensated and is not rendering services for the team in any manner, including days when the member has been suspended without pay and prohibited from performing any services for the team, may not be treated as duty days.

(b) "Member of a professional athletic team" includes employees who are active players, players on the disabled list or any other persons such as coaches, managers and trainers, and who are required to and do travel with and perform services on behalf of a professional athletic team on a regular basis.

(c) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, hockey or soccer team.

(d) "Total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year by the member for services rendered from the beginning of the

official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year, and during the taxable year on a date outside this time period. The compensation includes, but is not limited to, salaries, wages, bonuses as described in sub. (3)(c) and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. The compensation may not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments or any other payments not related to services rendered for the team.

Examples. Services rendered on a date that does not fall within the regular season include participation in:

- 1) Instructional leagues.
- 2) The "Pro Bowl."
- 3) Promotional caravans.

(3) METHOD OF ALLOCATION. (a) General. The allocation to Wisconsin of income earned by a nonresident employe as total compensation for services rendered as a member of a professional athletic team shall be made on the basis of a fraction, the numerator of which is the number of duty days spent within Wisconsin rendering services for the team in any manner during the taxable year and the denominator of which is the total number of duty days spent both within and outside Wisconsin during the taxable year.

(b) Duty days during the taxable year. Duty days shall be included in the fraction described in par. (a) for the taxable year in which they occur, including where a team's official pre-season training period through the last game in which the team competes, or is scheduled to compete, occurs during more than one taxable year. The following additional provisions apply:

1. Days during which a member of a professional athletic team is on the disabled list, does not conduct rehabilitation activities at facilities of the

team and is not otherwise rendering services for the team in Wisconsin, may not be considered duty days spent in Wisconsin. However, all days on the disabled list shall be included in the total duty days spent both within and outside Wisconsin.

2. Travel days that do not involve either a game, practice, team meeting, promotional caravan or other similar team event may not be considered duty days spent in Wisconsin but shall be considered in the total duty days spent both within and outside Wisconsin.

(c) Bonuses. Bonuses which shall be included for purposes of the allocation described in par. (a) are:

1. Performance bonuses earned as a result of play during the season, including bonuses paid for championship, playoff or "bowl" games played by a team or for selection to all-star league or other honorary positions.

2. Bonuses paid for signing a contract, unless all of the following conditions are met:

a. The payment of the signing bonus is not conditional upon the signee playing any games for the team or performing any subsequent services for the team, or even making the team.

b. The signing bonus is payable separately from the salary and any other compensation.

c. The signing bonus is nonrefundable.

Examples. The following examples illustrate the provisions of this subsection:

1) Player A, a member of a professional athletic team, is a nonresident of Wisconsin. Player A's contract for the team requires A to report to the team's training camp and to participate in all exhibition, regular season, and playoff games. Player A has a two-year contract which covers seasons that occur during taxable year 1/taxable year 2, and taxable year 2/taxable year 3. Player A's contract provides that A receive \$500,000 for the season which occurs during taxable year 1/taxable year 2, and \$600,000 for the season which occurs during taxable year 2/taxable year 3. Player A receives \$550,000 from the contract during taxable year 2 (\$250,000 for one-half the year 1/year 2 season and \$300,000 for one-half the year 2/year 3 season). The portion of the compensation received by Player A for taxable year 2 which is allocable to

Wisconsin is determined by multiplying the compensation Player A receives during the taxable year (\$550,000) by a fraction, the numerator of which is the total number of duty days Player A spends rendering services for the team in Wisconsin during taxable year 2 (attributable to both the year 1/year 2 season and the year 2/year 3 season) and the denominator of which is the total number of Player A's duty days spent both within and outside Wisconsin for the entire taxable year 2.

2) Player B, a member of a professional athletic team, is a nonresident of Wisconsin. During the season, B is injured and is unable to render services for B's team. While B is undergoing medical treatment at a clinic, which is not a facility of the team but is located in Wisconsin, B's team travels to Wisconsin for a game. The days B's team spends in Wisconsin for practice, games, meetings, etc., while B is present at the clinic, are not considered duty days spent in Wisconsin for Player B for that taxable year, but those days are included within total duty days spent both within and outside Wisconsin.

3) Player C, a member of a professional athletic team, is a nonresident of Wisconsin. During the season, C is injured and is unable to render services for C's team. C performs rehabilitation exercises at the facilities of C's team in Wisconsin as well as at personal facilities in Wisconsin. The days C performs rehabilitation exercises in the facilities of C's team are considered duty days spent in Wisconsin for Player C for that taxable year. However, days Player C spends at personal facilities in Wisconsin are not considered duty days spent in Wisconsin for Player C for that taxable year, but those days are included within total duty days spent both within and outside Wisconsin.

4) Player D, a member of a professional athletic team, is a nonresident of Wisconsin. During the season, D travels to Wisconsin to participate in the annual all-star game as a representative of D's team. The days D spends in Wisconsin for practice, the game, meetings, etc., are considered to be duty days spent in Wisconsin for Player D for that taxable year, as well as included within total duty days spent both within and outside Wisconsin.

5) Assume the same facts as in example 4, except that Player D is not participating in the all-star game and is not rendering services for D's team in any manner. Player D is instead traveling to and attending the game solely as a spectator. The days Player D spends in Wisconsin for the game are not considered to be duty days spent in Wisconsin. However, those days are included within total duty days spent both within and outside Wisconsin.

6) Player E, a member of a professional athletic team, is a nonresident of Wisconsin. During the pre-season, E travels to Wisconsin to participate in a training camp which E's team conducts in Wisconsin. E performs no further services in Wisconsin. E's team does not play any regular season or playoff games in Wisconsin. The days E spends in Wisconsin at the team's training camp are considered to be duty days spent in Wisconsin for Player E for that taxable year.

(4) ALTERNATIVE METHODS OF ALLOCATION. It is presumed that application of the provisions of this section will result in a fair and equitable

apportionment of compensation received by nonresident members of professional athletic teams. Where it is demonstrated that the method provided under this section does not fairly and equitably apportion the compensation, the department may require the member of a professional athletic team to apportion and allocate the compensation under a method which the department prescribes, provided the prescribed method results in a fair and equitable apportionment. A nonresident member of a professional athletic team may submit a proposal for an alternative method to apportion compensation where the member demonstrates that the method provided under this section does not fairly and equitably apportion the compensation. The proposed method shall be fully explained on the member's Wisconsin income tax return.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Dated: _____

March 27, 1996

By: _____

DEPARTMENT OF REVENUE

Mark D. Bugher
Secretary of Revenue

CKRUL/107

LRB or Bill No./Adm. Rule No.

Tax 2.31

Amendment No. if Applicable

**FISCAL ESTIMATE
DOA-2048 N(R10/94)**

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

Joe Malloy, 266-7817

Authorized Signature/Telephone No.

Yeang-Eng Braun
266-2700

Yeang Eng Braun

Date

10/16/95



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

March 27, 1996

Gary L. Poulson
Deputy Revisor
131 West Wilson Street, Suite 800
Madison, WI 53703-3233

Re: Clearinghouse Rule 95-202

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to compensation of nonresident members of professional athletic teams.

These materials are filed with you pursuant to s. 227.20(1), Stats.

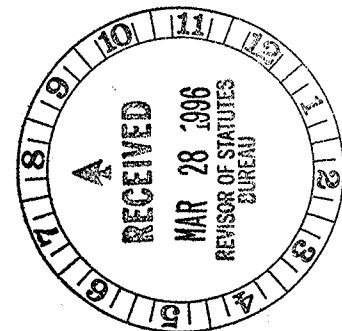
Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/165

Enclosure

cc: Douglas J. La Follette, Secretary of State
Commerce Clearing House, Inc.
Research Institute of America, Inc.





State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

March 27, 1996

Douglas La Follette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Dear Secretary La Follette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 95-202.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/164

Enclosure

cc: Deputy Revisor

