

CR 82-166

CERTIFICATE

STATE OF WISCONSIN )  
DEPARTMENT OF REVENUE)

SS

RECEIVED

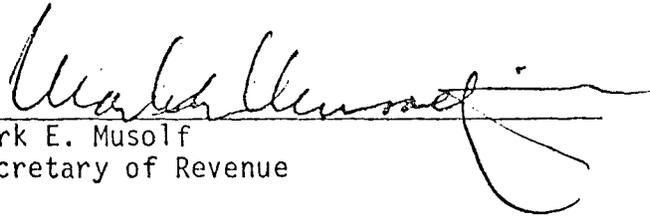
DEC 17 1982  
11:45 am  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Mark E. Musolf, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed rule relating to deductions for contributions to spousal individual retirement accounts was duly approved and adopted by this department on December 17, 1982.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 17th day of December, 1982.



Mark E. Musolf  
Secretary of Revenue

2-1-83

ORDER OF THE DEPARTMENT OF  
REVENUE ADOPTING RULES

To create Tax 2.945 relating to the deduction for contributions to an individual retirement plan for a nonworking spouse.

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Analysis by the Department of Revenue

This rule interprets s. 71.02(2)(b)8, (d) and (e), Stats., with respect to the income tax deduction for contributions to individual retirement plans of an individual and his or her nonworking spouse.

The Wisconsin income tax treatment is based on section 219(c) of the Internal Revenue Code which provides that an additional amount, in excess of that allowed a working spouse, may be deducted on a joint federal return for contributions to a retirement plan of a nonworking spouse.

The rule provides that the additional amount, referred to as a "spousal individual retirement contribution", is deductible for Wisconsin income tax purposes. The rule also provides that, since the Wisconsin statutes do not allow joint returns, each spouse may deduct only the amount contributed to his or her individual retirement plan.

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Pursuant to authority vested in the Department of Revenue by s. 71.11 (24)(a), Stats., the Department of Revenue hereby creates rules interpreting s. 71.02(2)(b)8, (d) and (e), Stats., as follows:

SECTION 1. Tax 2.945 is created to read:

Tax 2.945 SPOUSAL INDIVIDUAL RETIREMENT CONTRIBUTIONS (s. 71.02 (2)(b)8, (d) and (e), Stats.) (1) PURPOSE. The purpose of this rule is to define the Wisconsin income tax treatment of a spousal individual retirement contribution.

(2) DEFINITIONS. In this rule (a) "Qualifying individual" means an individual to whom a deduction is allowable under section 219(a) of the internal revenue code.

(b) "Qualifying individual retirement contribution" means contributions which are deductible under section 219 of the internal revenue code.

(c) "Spousal individual retirement contribution" means the amount allowable as a deduction under section 219(c) of the internal revenue code.

(3) THE LAW. Under section 219(c) of the internal revenue code, a qualifying individual may deduct, in addition to the amount allowable under section 219(a) of the internal revenue code, an additional amount not exceeding \$2,000 for contributions by or on behalf of the individual to an individual retirement plan established for the benefit of the individual's nonworking spouse, if the qualifying individual files a joint federal income tax return for the taxable year to which the contribution applies and the nonworking spouse has no compensation for the year. The total amount deductible on a joint return is limited to the lesser of \$2,250 or the qualifying individual's earned income for the year. Under s. 71.02(2)(b)8, Stats., the amount of contributions to an individual retirement plan deductible by an individual on a Wisconsin income tax return is determined under the internal revenue code.

(4) DEDUCTION ALLOWABLE. (a) Spousal individual retirement contributions shall be deductible from gross income in determining Wisconsin adjusted gross income on an individual's Wisconsin income tax return.

(b) The Wisconsin statutes require each spouse to file a return and compute his or her Wisconsin taxable income or loss separately. Under this principle of separate determinations of taxable income, each spouse shall be allowed to deduct only the qualifying individual retirement contributions made to his or her individual retirement plan.

NOTE TO REVISOR: Add the following footnote to the rule:

NOTE: The following examples illustrate the Wisconsin tax treatment of contributions to individual retirement plans for an individual and a nonworking spouse:

Example 1: Mr. X has earned income of \$20,000 in 1982 and establishes individual retirement accounts for himself and his nonworking spouse, who received \$500 of taxable interest income during 1982. Timely contributions totalling \$2,000 were made to his account and \$250 was contributed to his spouse's account for 1982. Mr. X may deduct a maximum of \$2,000 on his 1982 Wisconsin income tax return and his wife may deduct the \$250 contributed to her plan.

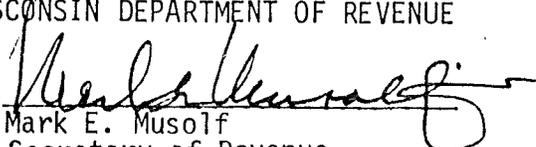
Example 2: Same facts as example 1 except \$1,000 is contributed to Mr. X's retirement plan and \$1,250 to his wife's plan. In this situation, Mr. X may deduct a maximum of \$1,000 while \$1,250 is deductible by his wife. Since Mrs. X received only \$500 of taxable income (interest) in 1982, she does not receive a Wisconsin tax benefit for \$750, the excess of the \$1,250 retirement contribution to her plan over her taxable income.

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The rules and amendments contained in this order shall take effect as provided in s. 227.026(1)(intro.), Stats.

Dated: December 17, 1982

WISCONSIN DEPARTMENT OF REVENUE

By:   
Mark E. Musolf  
Secretary of Revenue



State of Wisconsin \

DEPARTMENT OF REVENUE

OFFICE LOCATED AT  
125 SOUTH WEBSTER STREET

MAILING ADDRESS  
POST OFFICE BOX 8933  
MADISON, WISCONSIN 53708

December 17, 1982

Ms. Vel Phillips  
Secretary of State  
13 West, State Capitol  
Madison, WI 53702

Dear Ms. Phillips:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Rule Tax 2.945.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Musolf", with a large, sweeping flourish at the end.

Mark E. Musolf  
Secretary of Revenue

MEM:pks

Enclosures

cc: Revisor of Statutes



State of Wisconsin \ DEPARTMENT OF REVENUE

OFFICE LOCATED AT  
125 SOUTH WEBSTER STREET

MAILING ADDRESS  
POST OFFICE BOX 8933  
MADISON, WISCONSIN 53708

December 17, 1982

Orlan L. Prestegard  
Revisor of Statutes  
411 West, State Capitol  
Madison, WI 53702

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue adopting Rule Tax 2.945.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,

  
Mark E. Musolf  
Secretary of Revenue

MEM:pks

Enclosures

cc: Ms. Vel Phillips, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearing House, Inc.