



ORDER OF THE DEPARTMENT OF REVENUE

The Wisconsin Department of Revenue adopts an order to amend Tax 3.095(2)(intro.), (3)(intro.), (c) and (f) and (4)(intro.) and (b); and to create Tax 3.095(4)(c), (d), (e) and (f) relating to the income tax status of interest and dividends from various municipal, state, and federal obligations.

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Analysis by the Department of Revenue

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

Statutes interpreted: ss. 71.05(1)(a)1 and (b)(1), 1985 Stats.; and ss. 71.05(6)(a)1 and (b)(1), 1987 Stats.

The changes in this Order affect an income tax rule.

SECTIONS 1 and 2. Tax 3.095(2)(intro.) and (3)(intro.) are amended to conform to the style prescribed by the Legislative Council Rules Clearinghouse.

SECTION 3. Tax 3.095(3)(c) is amended to clarify that only interest from certain public housing agency bonds issued by agencies located outside of Wisconsin is subject to the Wisconsin income tax. Also, a definition is added for the term "public housing agency."

SECTION 4. Tax 3.095(3)(f) is amended to add additional bonds to those identified as being issued by the Wisconsin Housing and Economic Development Authority which are subject to taxation.

SECTION 5. Tax 3.095(4)(intro.) is amended to reflect that four new paragraphs are being added to this subsection.

SECTION 6. Tax 3.095(4)(b) is amended to correct the title of the security to which it relates.

SECTION 7. Tax 3.095(4)(c), (d), (e), and (f) are created to provide that the interest from bonds issued on or prior to January 28, 1987, by public housing agencies located outside Wisconsin, the Wisconsin Housing and Economic Development Authority, the District of Columbia, and the Virgin Island Housing Authority is exempt under certain specified conditions. Also, the "Note" which appears at the end of subsection (4) is revised.

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SECTION 1. Tax 3.095(2)(intro.) is amended to read:

Tax 3.095(2)(intro.) Interest and dividends payable on the following federal securities ~~listed in pars. (a) to (2b)~~ shall be exempt from the state income tax on individuals and fiduciaries. For purposes of this subsection, the term, "federal securities" means only securities which are direct and primary obligations of the United States and securities the interest of which federal

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law prohibits states from taxing. Federal securities do not include securities for which the United States is merely a guarantor and, therefore, has an obligation which is secondary and contingent to that of the issuer of the security.

SECTION 2. Tax 3.095(3)(intro.) is amended to read:

Tax 3.095(3)(intro.) Interest and dividends, less related expenses, payable on the following state, municipal, and other local government securities ~~listed in pars. (a) to (f)~~ shall be subject to the state income tax on individuals and fiduciaries.

SECTION 3. Tax 3.095(3)(c) is amended to read:

Tax 3.095(3)(c) Public housing authority agency bonds issued after January 28, 1987, and by municipalities agencies located outside Wisconsin. Public housing agency bonds issued on or prior to January 28, 1987, by agencies located outside Wisconsin where the interest from the bonds qualifies for exemption from federal income taxation solely because of section 103 of the internal revenue code. "Public housing agency" as used in this paragraph and in sub. (4)(c) means any state, county, municipality, or other governmental entity or public body, or agency or instrumentality thereof, which is authorized to engage in or assist in the development or operation of lower income housing, under 42 U.S.C. § 1437a(b)(6).

SECTION 4. Tax 3.095(3)(f) is amended to read:

Tax 3.095(3)(f) Wisconsin Housing and Economic Development Authority (WHEDA) bonds issued after January 28, 1987, and all business development revenue bonds, economic development revenue bonds, and Community Housing Alternatives Program (CHAP) housing revenue bonds issued by WHEDA, regardless of when issued, ch. 234, Stats.

SECTION 5. Tax 3.095(4)(intro.) is amended to read:

Tax 3.095(4)(intro.) Interest and dividends payable on the ~~housing-authority bonds-listed-below~~ following state, municipal, and other local government securities shall be exempt from the state income tax on individuals and fiduciaries:

SECTION 6. Tax 3.095(4)(b) is amended to read:

Tax 3.095(4)(b) Wisconsin Public Housing Finance Authority bonds, 42 U.S.C. § 1437i(b).

SECTION 7. Tax 3.095(4)(c), (d), (e) and (f) are created to read:

Tax 3.095(4)(c) Public housing agency bonds issued on or prior to January 28, 1987, by agencies, as defined in sub. (3)(c), located outside Wisconsin where the interest from the bonds qualifies for exemption from federal income taxation for a reason other than or in addition to section 103 of the internal revenue code.

(d) Wisconsin Housing and Economic Development Authority (WHEDA) bonds issued on or prior to January 28, 1987, except business development revenue bonds, economic development revenue bonds and CHAP housing revenue bonds issued by WHEDA.

(e) District of Columbia general obligation bonds issued on or prior to January 28, 1987, where the interest from the bonds qualifies for exemption from federal income taxation for a reason other than or in addition to section 103 of the internal revenue code.

(f) Virgin Island Housing Authority bonds issued on or prior to January 28, 1987, where the interest from the bonds qualifies for exemption from federal income taxation for a reason other than or in addition to section 103 of the internal revenue code.

Note to Revisor: Delete the Note which presently appears after par. (b) of Tax 3.095(4), and insert the following Note after par. (f) of Tax 3.095(4):

Note: This rule sets out examples of interest and dividends payable on state, municipal and federal obligations which are taxable and tax exempt.

Section 71.05(1)(a)1, Wis. Stats. (1985-86), provides for the inclusion in Wisconsin income of natural persons and fiduciaries of interest, less related expenses, received on state and municipal obligations.

Section 71.05(1)(b)1, Wis. Stats. (1985-86), provides for the exclusion from Wisconsin income of natural persons and fiduciaries of any interest or dividend income which is by federal law exempt from taxation by Wisconsin.

For periods prior to August 1, 1987, interest accrued from District of Columbia Development Land Agency bonds, Export-Import Bank of the United States debentures, Farmer's Home Administration insured notes, Government National Mortgage Association bonds, Small Business Investment Company debentures and transit bonds of the Washington Metropolitan Area Transit Authority was not subject to the Wisconsin income tax if payment of principal and interest on such obligations was guaranteed by the United States. As a result of the U.S. Supreme Court decision in the case of Rockford Life Insurance Company v. Illinois Department of Revenue et al., 96 L Ed 2nd 152, the Department of Revenue does not consider these financial instruments to be direct and primary obligations of the United States so as to qualify for exemption from state income taxation. Therefore, by emergency rule effective August 1, 1987, the Department of Revenue amended this rule to reverse its prior interpretation and to provide that interest which accrues on these financial instruments on or after August 1, 1987, is subject to Wisconsin income tax.

Subsection (4) provides that interest accrued on certain state, municipal and other local government securities issued on or before January 28, 1987, is not subject to Wisconsin income tax. This is due to the fact that no modification is provided for in Wisconsin law that would add to federal adjusted gross income interest from these securities if the interest has been excluded from federal adjusted gross income by any reason other than or in addition to section 103 of the Internal Revenue Code.

1987 Wisconsin Act 27 amended s. 71.05(1)(a)1, Wis. Stats. (1985-86), to provide for the addition to federal adjusted gross income, of any interest not included in federal adjusted gross income which is not specifically exempted from state taxation. This change applies only to securities issued after January 28, 1987. Prior to this act, this addition only applied to interest excluded from federal adjusted gross income solely by section 103 of the Internal Revenue Code.

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The rule contained in this order shall take effect on September 28, 1989, under the provisions of s. 227.22(2)(b), Stats.

Final Regulatory Flexibility Analysis

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

Dated: August 9, 1989

DEPARTMENT OF REVENUE

By: 

Mark D. Bugher  
Secretary of Revenue

RPT/M021159V  
July 19, 1989



State of Wisconsin ● DEPARTMENT OF REVENUE

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

*Tommy G. Thompson*  
Governor

*Mark D. Bugher*  
Secretary of Revenue

August 9, 1989

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

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 89-87.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

Mark D. Bugher  
Secretary of Revenue

MDB:VLG:bem  
Enclosure  
LEG/M022009F

cc: Revisor of Statutes



**State of Wisconsin** ● **DEPARTMENT OF REVENUE**

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

**Tommy G. Thompson**  
Governor

**Mark D. Bugher**  
Secretary of Revenue

August 9, 1989

Orlan L. Prestegard  
Revisor of Statutes  
30 West Mifflin Street, Suite 702  
Madison, Wisconsin 53703

Re: Clearinghouse Rule 89-87

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to the income tax status of interest and dividends from various municipal, state, and federal obligations.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Bugher', written over a horizontal line.

Mark D. Bugher  
Secretary of Revenue

MDB:VLG:bem  
Enclosure  
LEG/M022009G

cc: Douglas J. LaFollette, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearinghouse, Inc.