01-3736

STATE OF WISCONSIN

REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS

2001 SENATE BILL 246

[Introduced by Senator Burke; cosponsored by Representative Gard, by request of the Department of Revenue.]

General Nature of Proposal

Generally, under current law, for Wisconsin income tax purposes, state law makes reference to the Internal Revenue Code. Typically, every biennium Wisconsin statutes relating to the income tax are updated to provide a more current reference to the Internal Revenue Code, as affected by recent federal legislation. 2001 Senate Bill 246 provides this biennial update by incorporating by reference changes to the Internal Revenue Code contained in P.L. 106-200, P.L. 106-230, P.L. 106-573, and P.L. 106-554, excluding sections of P.L. 106-554 relating to environmental remediation costs and corporate donations to computer technology.

According to the Department of Revenue, without adoption of these provisions, there will be substantial differences between federal and Wisconsin income tax laws beginning in tax year 2001. The department indicates that these differences would require the department to prepare instructions and tax forms outlining the differences in federal and state law and explaining to taxpayers how to adjust for those differences. Additionally, the department points out that taxpayers would face the added complexity of complying with these differences and being subject to audit. The bill would affect a number of provisions of current state law with respect to the income and corporate franchise tax, some of which would specifically affect a tax exemption and some of which would not. The following describes the major provisions of the bill which relate to a tax exemption:

Medical Savings Account. The medical savings account program under federal law was scheduled to expire at the end of 2000 but was extended, through federal legislation, through 2002. Under the MSA program, employer contributions to an MSA and distributions from an MSA for qualified medical expenses are excluded from gross income of the employee and contributions to an MSA by an individual may be deducted from income. The bill effectively extends the MSA program for purposes of Wisconsin income taxes through 2002.

Tax Benefits With Respect to Kidnapped Children. Recently enacted federal law allows a taxpayer to claim dependency status for his or her child if law enforcement authorities believe the child has been kidnapped by someone who is not a family member. The bill effectively extends this provision to Wisconsin taxpayers which would allow Wisconsin taxpayers to claim head-of-household in certain situations and to claim a personal exemption for the kidnapped child.

IRAs for Nonworking Spouses. Generally, federal law places limits on IRA contributions for spouses with little or no earnings so that a couple's combined contribution does not exceed their combined earned income. The bill effectively applies this limit to Wisconsin taxpayers for Wisconsin income tax purposes.

Renewal Communities. Under federal law, taxpayers and areas designated as renewal communities may take a "commercial revitalization deduction" equal to either 50% of qualifying expenditures for a taxable year in which a qualified building was placed in service, or all of the qualifying expenditures prorated over a 10-year period. The bill effectively adopts this provision for Wisconsin income tax purposes to allow qualified Wisconsin taxpayers to take such a deduction.

Empowerment Zones. Recent federal legislation extended the federal empowerment zone program through December 31, 2009, and increased the amount of property placed in service in a zone that may be expended in the year acquired from $20,000 to $35,000. The bill extends these provisions to Wisconsin taxpayers for Wisconsin income tax purposes.

Legality Involved

There are no questions of legality involved.

Fiscal Effect Upon the State and Its Subdivisions

The Department of Revenue estimates the fiscal effect of this bill as follows:

> The bill would update the statutory reference to the Internal Revenue Code, with exceptions, so that federal law enacted through December 31, 2000, would apply for Wisconsin income tax purposes. Specifically, the bill would adopt:
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> 1. The community renewal tax relief act provisions of the consolidated appropriations act [P.L. 106-554], except that deductions for environmental remediation expenses and corporate donations of computer technology would not be adopted for Wisconsin purposes; and
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> 2. The installment tax correction act [P.L. 106-573].
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> The bill would not adopt provisions of the federal sales corporation repeal and extraterritorial income exclusion act [P.L. 106-519] for Wisconsin purposes.
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> Federal provisions to which Wisconsin would conform under this bill relate to extension of the medical savings account program, tax benefits with respect to kidnapped children, individual retirement accounts for nonworking spouses, the federal renewal communities and empowerments zone programs, the basis of stock received in tax-free exchanges, securities futures contracts, and use of the installment method by accrual method taxpayers. Provisions requiring taxpayers to reduce the basis of stock in certain tax-free exchanges would increase tax revenues by $100,000 annually. Other provisions would have a limited fiscal effect.

Public Policy Involved

The provisions of the bill affecting tax exemptions are good public policy.