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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Rural Economic Development and Rural Affairs...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (December 2012)

Assembly

Record of Committee Proceedings

Committee on Rural Economic Development and Rural Affairs

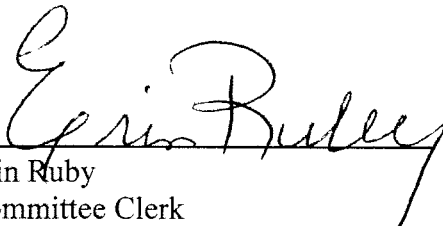
Clearinghouse Rule 11-023

Relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

Submitted by Department of Revenue.

July 21, 2011 Referred to Committee on Rural Economic Development and Rural Affairs.

August 22, 2011 No action taken.


Erin Ruby
Committee Clerk





State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX (608) 266-5718 • <http://www.revenue.wi.gov>

Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

July 8, 2011

Honorable Michael Ellis
President State Senate
Room 220 South State Capitol
PO Box 7882
Madison WI 53707-7882

Honorable Jeff Fitzgerald
Speaker State Assembly
Room 211 West State Capitol
PO Box 8953
Madison WI 53708-8953

Re: Clearinghouse Rule 11-023

Dear Senator Ellis and Representative Fitzgerald:

This is to notify you that the proposed rule order relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin is in final draft form. The proposed rule order and Notice of Hearing were published in the Wisconsin Administrative Register on May 31, 2011. A public hearing was held on June 14, 2011.

Copies of the proposed rule order and Report are enclosed. A brief summary of the proposed rule order follows:

Summary of Proposed Rule Order

This proposed rule prescribes the method by which the percentage of the workforce payroll of a business and the dollar amount of wages paid to such workforce moved to this state during a taxable year shall be determined for purposes of ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats. It also provides examples of actions that may indicate a business has relocated to this state from another state or country and limits the deduction provided for in s. 71.05 (6) (b) 47. am., b., and c., Stats.

Sincerely,

Richard G. Chandler
Secretary of Revenue

RGK:DSK
e:rules\2957 Committees - President Speaker

Enclosure

DEPARTMENT OF REVENUE

CLEARINGHOUSE RULE NUMBER 11-023

SECTION 227.19(2) AND (3), STATS., REPORT

Basis and Purpose of the Proposed Rule

The rule is necessary to prescribe the method by which the percentage of the workforce payroll of a business and the dollar amount of wages paid to such workforce moved to this state during a taxable year shall be determined for purposes of ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats. It also provides examples of actions that may indicate a business has relocated to this state from another state or country and limits the deduction provided for in s. 71.05 (6) (b) 47. am., b., and c., Stats.

Public Hearing

A public hearing was held on June 14, 2011. No testimony was offered at the hearing.

Legislative Council Staff Recommendations

All Legislative Council staff recommendations have been incorporated in the proposed rule order.

Regulatory Flexibility Analysis

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

PROPOSED ORDER OF THE DEPARTMENT OF REVENUE CREATING RULES

The Wisconsin Department of Revenue proposes an order to: **create** Tax 2.957; **relating to** income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

Analysis by the Department of Revenue

Statutes interpreted: ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats.

Statutory authority: ss. 71.05 (6) (b) 47. e., 71.28 (9s) (d) 2., 71.47 (9s) (d) 2., and 227.24, Stats.

Explanation of agency authority: Sections 71.05 (6) (b) 47. e., 71.28 (9s) (d) 2., and 71.47 (9s) (d) 2., Stats., require the department to promulgate rules to administer the income and franchise tax credits and deductions created by 2011 Wisconsin Act 3 for businesses that relocate to Wisconsin.

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: This proposed rule prescribes the method by which the percentage of the workforce payroll of a business and the dollar amount of wages paid to such workforce moved to this state during a taxable year shall be determined for purposes of ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats. It also provides examples of actions that may indicate a business has relocated to this state from another state or country and limits the deduction provided for in s. 71.05 (6) (b) 47. am., b., and c., Stats.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

Comparison with rules in adjacent states: The department has researched provisions in adjacent states and is not aware of the existence of a similar rule.

Summary of factual data and analytical methodologies: 2011 Wisconsin Act 3 created income and franchise tax credits and deductions for businesses that relocate to Wisconsin. Among the provisions created is a requirement for the department to promulgate rules to administer these credits and deductions. The department has created this proposed rule order to comply with this statutory requirement.

Analysis and supporting documents used to determine effect on small business: As explained above, this proposed rule is created to administer changes in Wisconsin's income and franchise tax laws. As the rule itself does not impose any significant financial or other compliance burden, the department has determined that it does not have a significant effect on small business.

Anticipated costs incurred by private sector: This proposed rule does not have a significant fiscal effect on the private sector.

Effect on small business: This proposed rule does not have a significant effect on small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this proposed rule.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to the contact person shown below no later than Tuesday, June 21, 2011.

Dale Kleven
Department of Revenue
Mail Stop 6-40
2135 Rimrock Road
P.O. Box 8933
Madison, WI 53708-8933

SECTION 1. Tax 2.957 is created to read:

Tax 2.957 Relocated business credit or deduction. (1) PURPOSE. The purpose of this section is to prescribe the method by which the percentage of the workforce payroll of a business and the dollar amount of wages paid to such workforce moved to this state during a taxable year shall be determined for purposes of ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats.; provide examples of actions that may indicate a business has relocated to this state from another state or country; and limit the deduction provided for in s. 71.05 (6) (b) 47. am., b., and c., Stats.

(2) DEFINITIONS. In this section:

(a) "Business" means any organization or enterprise operated for profit, including a sole proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, limited liability company, or association.

(b) "Doing business in this state" has the meaning given in s. 71.22 (1r), Stats.

(c) "Employee" has the meaning given in section 3121 (d) of the Internal Revenue Code.

(d) "Taxable year" has the meaning given in ss. 71.01 (12), 71.22 (10), and 71.42 (5), Stats.

(e) "Wages" has the meaning given in section 3121 (a) of the Internal Revenue Code.

(3) RELOCATION TO THIS STATE. For purposes of ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats., actions that may indicate a business has relocated to this state from another state or country include the following:

(a) Registering with the department, as provided in s. 73.03 (50), Stats.

(b) Registering to do business in Wisconsin with the department of financial institutions.

(4) DOING BUSINESS IN THIS STATE. For purposes of ss. 71.05 (6) (b) 47., 71.28 (9s), and 71.47 (9s), Stats., doing business in this state for any portion of a taxable year means doing business in this state for the entire taxable year, as provided in s. 71.22 (1r), Stats.

(5) WORKFORCE PAYROLL. For purposes of ss. 71.05 (6) (b) 47. a., 71.28 (9s) (a) 2., and 71.47 (9s) (a) 2., Stats., the determination as to whether 51% or more of the workforce payroll of a business has moved to this state during a taxable year shall be made using a fraction, the numerator of which is the total amount of wages paid by the business during the taxable year to employees of the business who are residents of this state, and the denominator of which is the total amount of wages paid by the business during the taxable year to all employees of the business.

Example: During the taxable year in which Business A begins doing business in Wisconsin, Business A pays \$6,000,000 of wages to employees of Business A who are residents of Wisconsin and \$10,000,000 of total wages to all employees of Business A. Sixty (60) percent of the workforce payroll of Business A moved to Wisconsin during the taxable year (6,000,000/10,000,000).

(6) WORKFORCE WAGES. For purposes of ss. 71.05 (6) (b) 47. a., 71.28 (9s) (a) 2., and 71.47 (9s) (a) 2., Stats., the determination as to whether at least \$200,000 of wages paid to the workforce of a business has moved to this state during a taxable year shall be made using the total amount of wages paid by the business during the taxable year to employees of the business who are residents of this state.

Example: During the taxable year in which Business B begins doing business in Wisconsin, Business B pays \$250,000 of wages to employees of Business B who are residents of Wisconsin. Wages of \$250,000 paid to the workforce of Business B moved to Wisconsin during the taxable year.

(7) LIMITATION ON DEDUCTION. No modification may be made under s. 71.05 (6) (b) 47. am., b., or c., Stats., if the amount otherwise eligible for the modification is less than zero.

Example: Partner B determines the amount otherwise eligible for the modification under s. 71.05 (6) (b) 47. b., Stats., is a loss of \$5,000. Partner B may not make a modification under s. 71.05 (6) (b) 47. b., Stats.

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.

DEPARTMENT OF REVENUE

Dated: _____

5/6/11

By: _____

Richard G. Chandler
Richard G. Chandler
Secretary of Revenue



Senate Workforce Development, Small
Business & Tourism (7/13) (8/15)

DATE: July 21, 2011

TO: Erin Ruby

Committee on Rural Economic Development and Rural Affairs

FROM: Patrick E. Fuller, Assembly Chief Clerk

RE: Clearinghouse Rules Referral

The following Clearinghouse Rule has been referred to your committee.

CLEARINGHOUSE RULE 11-023

AN ORDER to create Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

Submitted by **Department of Revenue.**

Report received from Agency on **July 8, 2011.**

To committee on **Rural Economic Development and Rural Affairs.**

Referred on **Thursday, July 21, 2011.**

Last day for action - **Monday, August 22, 2011.**

Under section 227.19 (4) of the Wisconsin Statutes, your committee has 30 days to take action or get an extension. The day **after** the official referral date is day one of your review period. Therefore, the 30th day should fall four weeks and two days after the referral date. For example, for Clearinghouse Rules referred on a Monday, a Wednesday would be your 30th day. For Clearinghouse Rules referred on a Thursday or Friday, your 30th day would fall on a weekend. Therefore, your time would expire on the next working day (Monday) as provided for in s. 990.001 of the Wisconsin Statutes. Also, if the 30th day falls on a legal holiday, time would expire on the next working day.

To extend your review period for an additional 30 days, your committee has one of two options. Section 227.19(4)(b) states that you can request in writing that the agency meet with the committee to review the proposed rule. Another option is to publish or post notice that the committee will hold a meeting or hearing to review the proposed rule and immediately send a copy of the notice to the agency.

Section 227.19 **requires** you to notify each member of your committee that you have received this Clearinghouse Rule. Although some committee chairs choose to do so, you are not required by law or rule to send a copy of the text of the rule to each member at this time. Instead, your notice could state that members should contact you if they wish to receive a hard copy of the rule. Another option would be to email the rule to members. Please put a copy of your official notification memo in the rule jacket.

Three copies of the Clearinghouse Rule and its accompanying documents are contained in the jacket. If you wish to have your Legislative Council attorney review the Clearinghouse Rule, send him/her a copy. I only need one copy remaining in the jacket when you report it out of committee at the end of the review period.

The identical process is happening simultaneously in the Senate. Keep track of their action on the rule.

For assistance with the Clearinghouse Rule process, please consult Kay Inabnet (6-5550) or your Legislative Council attorney. If you wish to learn more on this subject, read *Review of Administrative Rules* which is part of the Legislative Council's Wisconsin Legislator Briefing Book series, section 227.19 of the Wisconsin Statutes or part 2 of the *Administrative Rules Procedures Manual* written by the Revisor of Statutes Bureau and the Wisconsin Legislative Council staff.



Ruby, Erin

From: Rep.Ott
Sent: Thursday, July 21, 2011 2:42 PM
To: Rep.Danou; Rep.Jorgensen; Rep.Krug; Rep.Larson; Rep.Murtha; Rep.Petrowski;
Rep.Radcliffe; Rep.Ringhand; Rep.Ripp; Rep.Rivard; Rep.Roys; Rep.Steineke; Rep.Tauchen;
Rep.Vruwink
Cc: Adrian2, Scott; Arrowood, Craig; Bahr, Dan; 'Boe, Steve'; Carpenter2, Dan; Ehm, Katherine;
Fiocchi, Tim; Gau, Maggie; Gillis, George; Kelly, Tom; Kraak, Maureen; Lundgren, Doug;
Malcore, Jennifer; McWilliams, Emily; Miller, Lindsay; Plata, Christian; Pollocoff, Erin;
Punches, Derek; Rausch, Scott; Scherdell, Derrick; Schneider, Alicia; Shepherd-Bussan,
Colette; Sweeney, Rebekah; Wenzlaff, Tyler; Wagner, Michael W - DOR; Rostan, Jason;
Mueller, Virginia; Nelson, Elise; Henning, Anna
Subject: Clearinghouse Rule Referred to the Assembly Committee on Rural Economic Development &
Rural Affairs
Attachments: 20110721141818623.pdf

Committee Members,

The following Clearinghouse Rule from the Department of Revenue has been referred to the Assembly Committee on Rural Economic Development and Rural Affairs for a 30 day review period:

Clearinghouse Rule 11-023: Relating to Income and Franchise Tax Credits and Deductions for Businesses that Relocate to Wisconsin. (10 page document)



201107211418186
23.pdf (581 KB)...

Please contact my office if you have any questions, need hard copies of this document, or would like to request a hearing on this rule.

The initial 30 day deadline for Committee review is **Monday, August 22, 2011**.

Rep. Al Ott
Chairman
Assembly Committee on Rural Economic Development & Rural Affairs





Al Ott

State Representative • 3rd Assembly District

August 23, 2011

Secretary Rick Chandler
Wisconsin Department of Revenue
2135 Rimrock Road, #624-A
Madison, WI 53713

Dear Secretary Chandler,

This letter is to inform you that the following clearinghouse rule has been reported out of the Assembly Committee on Rural Economic Development and Rural Affairs:

Clearinghouse Rule #11-023
Relating to: Income and Franchise Tax Credits and Deductions for Businesses that
relocate to Wisconsin

A public hearing was not held, and no committee action was taken on the rule.

Please feel free to contact my office if you have any questions.

Sincerely,

Al Ott
State Representative
Chair, Assembly Committee on Rural Economic Development & Rural Affairs





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Richard Sweet
Clearinghouse Director

Pam Shannon
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **11-023**

AN ORDER to create Tax 2.957, relating to income and franchise tax credits and deductions for businesses that relocate to Wisconsin.

Submitted by **DEPARTMENT OF REVENUE**

04-05-2011 RECEIVED BY LEGISLATIVE COUNCIL.

05-02-2011 REPORT SENT TO AGENCY.

RNS:CB

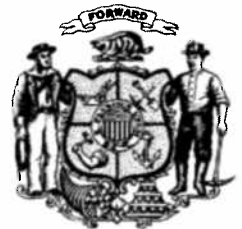
LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN STATE LEGISLATURE





WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Richard Sweet
Clearinghouse Director

Pam Shannon
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 11-023

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 September 2008.]

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

In s. Tax 2.957 (1), “method by which the percent of the workforce” should be replaced by “method by which the percentage of the workforce”. In sub. (5), “51%” should replace “fifty-one (51%) percent”.