

CR 94-134

CERTIFICATE

STATE OF WISCONSIN )

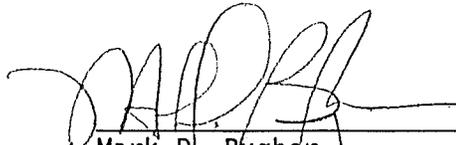
) SS

DEPARTMENT OF REVENUE )

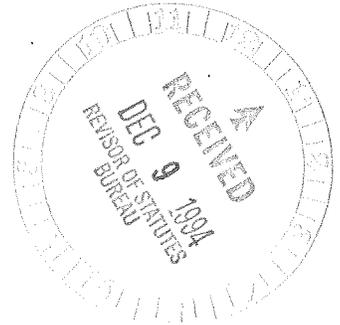
I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to Wisconsin earned income credit eligibility was duly approved and adopted by this department on December 8, 1994.

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 8<sup>th</sup> day of December, 1994.

  
\_\_\_\_\_  
Mark D. Bugher  
Secretary of Revenue

MDB:MPW:c11  
CKRUL/20



2-1-95

ORDER OF THE DEPARTMENT OF REVENUE  
CREATING RULES

The Wisconsin Department of Revenue adopts an order to create Tax 2.97, relating to a person's eligibility to claim the earned income credit.

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Analysis by the Department of Revenue

Statutory authority: ss. 71.01(5) and 71.80(1)(c), Stats.

Statutes interpreted: s. 71.07(9e)(ad), (ah), (ap) and (at), Stats.

SECTION 1. Tax 2.97 is created to describe a person's eligibility for the Wisconsin earned income credit as a result of the creation of s. 71.07(9e)(ad), (ah), (ap) and (at), Stats., by 1993 Wis. Act 16. The Wisconsin Statutes do not describe who may claim the credit, what constitutes earned income or who is a qualifying child.

Under the law in effect prior to the enactment of 1993 Wis. Act 16, the Wisconsin earned income credit was based on a percentage of the federal basic earned income credit. This rule provides that the same persons with a qualifying child who are eligible for the federal earned income credit are eligible for the Wisconsin earned income credit.

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SECTION 1. Tax 2.97 is created to read:

Tax 2.97 EARNED INCOME CREDIT ELIGIBILITY. (s. 71.07(9e)(ad), (ah), (ap) and (at), Stats.) (1) GENERAL. Under s. 71.07(9e)(ad), (ah), (ap) and (at), Stats., certain persons may claim an earned income credit based on the person's earned income or federal adjusted gross income.

(2) DEFINITIONS. In this section:

(a) "Earned income" means:

1. Wages, salaries, tips and other employe compensation.
2. The amount of the person's net earnings from self-employment for the taxable year within the meaning of s. 1402(a) of the internal revenue code, but net earnings shall be determined with regard to the deduction allowed to the person under s. 164(f) of the internal revenue code.

(b) "Qualifying child" means, with respect to any person for any taxable year, an individual:

1. Who meets the relationship test described in sub. (5)(a).
2. Who, except as provided in sub. (5)(a)3, has the same principal place of abode as the person for more than one-half of the taxable year.
3. Who meets the age requirements of sub. (5)(b).
4. Whom the person properly identifies under the requirements of sub. (5)(c).

(3) PERSONS ELIGIBLE FOR THE CREDIT. (a) Except as provided in pars. (b), (c) and (d), a person who has a qualifying child for the taxable year may claim the earned income credit.

(b) A person may not claim the earned income credit for the taxable year if the person is the qualifying child of another person for that taxable year.

Example: You and your daughter lived with your mother during the taxable year. Both you and your mother meet all the requirements for the earned income credit for the taxable year.

Your daughter is your qualifying child. Both you and your daughter are qualifying children of your mother.

You cannot take the earned income credit because you are your mother's qualifying child.

(c) If 2 or more persons would be treated as eligible for the credit with respect to the same qualifying child for taxable years beginning in the same calendar year, only the person with the highest federal adjusted gross income for the taxable year may claim the earned income credit with respect to the qualifying child.

Example: You and your 5-year-old son moved in with your mother in April. You are not a qualifying child of your mother. Your son meets the conditions to be a qualifying child for both you and your mother. Your federal adjusted gross income for the taxable year was \$7,000 and your mother's was \$14,000. Since your mother's federal adjusted gross income was higher, only your mother may claim the earned income credit with respect to your son.

(d) A person who claims the foreign earned income exclusion under s. 911 of the internal revenue code for the taxable year may not claim the earned income credit.

(4) EARNED INCOME COMPUTATION. (a) The earned income of a person shall be computed without regard to any marital property laws.

(b) No amount received as a pension or annuity may be taken into account in computing earned income.

(c) No amount to which s. 871(a) of the internal revenue code applies, relating to income of nonresident alien individuals not connected with United States business, may be taken into account in computing earned income.

(5) "QUALIFYING CHILD" REQUIREMENTS. (a) Relationship test. 1. An individual bears a relationship to the person if the individual is any of the following:

a. A son or daughter of the person, or a descendant of either.

b. A stepson or stepdaughter of the person.

c. An eligible foster child of the person.

2. Subdivision 1 does not apply to any individual who is married as of the end of the person's taxable year unless the person is entitled to a deduction under s. 151 of the internal revenue code for that taxable year with respect to the individual or would be so entitled but for par. (2) or (4) of s. 152(e) of the internal revenue code.

3. For purposes of subd. 1.c, an eligible foster child is an individual not described in subd. 1.a or b who:

a. The person cares for as the person's own child.

b. Has the same principal place of abode as the person for the person's entire taxable year.

4. A child who is legally adopted or who is placed with a person by an authorized placement agency for adoption by the person shall be treated as a child by blood.

(b) Age requirements. An individual meets the requirements of this paragraph if the individual meets any of the following conditions:

1. Has not attained the age of 19 as of the end of the calendar year in which the taxable year of the person begins.

2. Is a student as defined in s. 151(c)(4) of the internal revenue code who has not attained the age of 24 as of the end of the calendar year.

3. Is permanently and totally disabled as defined in s. 22(e)(3) of the internal revenue code at any time during the taxable year.

(c) Identification requirements. The requirements of this paragraph are met if, as part of the tax return on which the credit is claimed:

1. The person provides the name and age of each qualifying child.

2. In the case of a qualifying child who has attained the age of one year before the end of the person's taxable year, the person provides the taxpayer identification number of the qualifying child.

(d) Abode must be in the United States. The requirements of sub. (2)(b)2 and par. (a)3.b shall be met only if the principal place of abode is in the United States.

Note: The provisions of this section are effective for taxable years beginning on or after January 1, 1994, as a result of the enactment of 1993 Wis. Act 16, which created s. 71.07(9e)(ad), (ah), (ap) and (at), Stats. Prior to the enactment of 1993 Wis. Act 16, the Wisconsin earned income credit was based on a percentage of the federal basic earned income credit.

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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

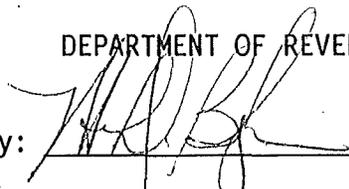
This rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

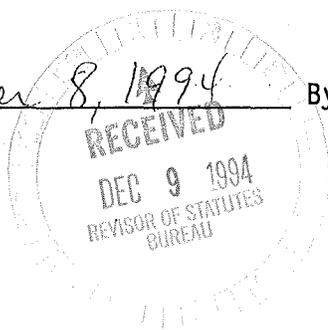
Dated: \_\_\_\_\_

*December 8, 1994*

By: \_\_\_\_\_



Mark D. Bugher  
Secretary of Revenue



ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
Tax 2.97  
Amendment No. if Applicable

FISCAL ESTIMATE  
DOA-2048 (R10/92)

Subject

Earned Income Credit Eligibility

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  VTAE Districts

Fund Sources Affected

GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

This rule interprets s. 71.07 (9e)(ad), (ah), (ap) and (at), Stats., as created in 1993 Wisconsin Act 16, by conforming to federal eligibility requirements for purposes of the earned income credit. It has no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Dennis Collier, 266-5773	Authorized Signature/Telephone No. Yeang-Eng Braun 266-2700 <i>Yeang-Eng Braun</i>	Date 6/23/94
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State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-8466 • FAX 608-266-5718

Tommy G. Thompson  
Governor

Mark D. Bugher  
Secretary of Revenue

December 8, 1994

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

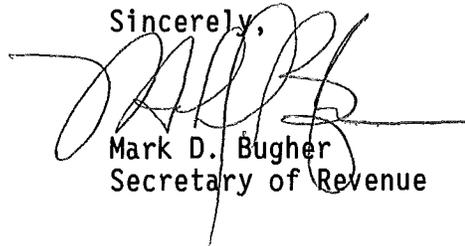
Re: Clearinghouse Rule 94-134

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to Wisconsin earned income credit eligibility.

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

Sincerely,



Mark D. Bugher  
Secretary of Revenue

MDB:MPW:c11  
CKRUL/18

Enclosure

cc: Douglas J. LaFollette, 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 • 608-266-6468 • FAX 608-266-5718

Tommy G. Thompson  
Governor

Mark D. Bugher  
Secretary of Revenue

December 8, 1994

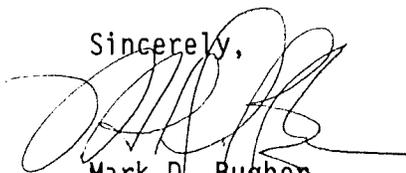
Douglas LaFollette  
Secretary of State  
30 West Mifflin Street, 10th Floor  
Madison, WI 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 94-134.

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

Sincerely,



Mark D. Bugher  
Secretary of Revenue

MDB:MPW:c11  
CKRUL/17

Enclosure

cc: Revisor of Statutes Bureau

