

CR 94-152

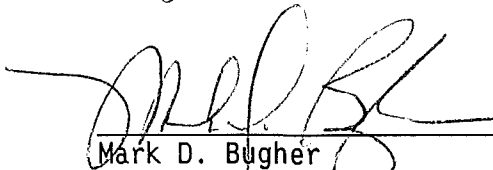
CERTIFICATE

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 income taxes, was duly approved and adopted by this department on March 13, 1995.

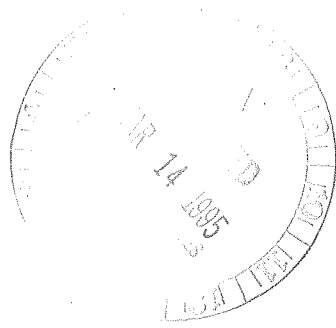
I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 13th day of March, 1995.



Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/70



6-1-95

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING AND RECREATING RULES

The Wisconsin Department of Revenue adopts an order to repeal and recreate Tax 2.03, 2.04, 2.08 and 2.10, relating to: forms required of corporations; information returns and wage statements; forms required of persons other than corporations; and federal forms required to be attached to Wisconsin returns of persons other than corporations.

Analysis by the Department of Revenue

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

Statutes interpreted: ss. 71.03(2) and (5), 71.20(1), 71.24(1), (1m) and (3), 71.26(3)(e), 71.365(4) and (5), 71.44(1)(a) and (c) and (1m), 71.55(3), 71.65(2), 71.67(4) and (5), 71.70, 71.71(2), 71.72, 71.74(4) and 71.80(20), Stats.

SECTION 1. Tax 2.03, relating to forms required to be filed by corporations, is repealed and recreated to include additional statutory references and new forms, and to update titles of other forms and the address for delivering the forms.

SECTION 2. Tax 2.04, relating to information returns and wage statements, is repealed and recreated to: update statutory references; update language and style and place addresses in notes rather than in the text of the rule, per Legislative Council Rules Clearinghouse standards; add limited liability companies to the definition of "person"; delete references to obsolete federal form W-2P; address that persons other than corporations are not required to file information returns reporting rents and royalties unless those payments are deducted in determining their Wisconsin taxable income; reflect the requirement to file certain wage statements and information returns on magnetic media or in other machine-readable form, per the creation of s. 71.80(20), Stats., by 1991 Wis. Act 39; and reflect the requirement of payers to report certain gambling winnings to the department, per the creation of s. 71.67(4)(c) and (5)(d), Stats., by 1993 Wis. Act. 16.

SECTION 3. Tax 2.08, relating to forms required to be filed by persons other than corporations, is repealed and recreated to include new forms, to update titles of forms and who may file various tax returns, to update the address for delivering the forms, to create titles for each subsection, and to group the forms by individuals/fiduciaries and partnerships/limited liability companies treated as partnerships.

SECTION 4. Tax 2.10, relating to federal forms required to be attached to Wisconsin returns by persons other than corporations, is repealed and

recreated to include an additional statutory reference, to reflect department policy regarding federal forms required to be filed with Wisconsin partnership returns, and to reflect the treatment of limited liability companies treated as partnerships.

SECTION 1. Tax 2.03 is repealed and recreated to read:

Tax 2.03 CORPORATION RETURNS. (ss. 71.24(1), (1m) and (3), 71.365(4) and (5) and 71.44(1)(a) and (c) and (1m), Stats.) (1) FORMS. For the purpose of filing franchise or income tax returns, the secretary of revenue has designated the following forms for the use of corporations, as defined in s. 71.22(1), Stats.:

(a) Form 4. Corporation franchise or income tax return. This return shall be used only by corporations reporting on the apportionment or separate accounting method.

(b) Form 4B. Apportionment data.

(c) Form 4BL. Net business loss carryforward.

(d) Form 4C. Separate accounting data.

(e) Form 4-ES. Corporation estimated tax voucher.

(f) Form 4H. Corporation declaration of inactivity.

(g) Form 4I. Insurance company franchise tax return.

(h) Form 4T. Exempt organization business franchise or income tax return.

(i) Form 4U. Underpayment of estimated tax by corporations.

(j) Form 4X. Amended corporation franchise or income tax return.

(k) Form 5. Corporation franchise or income tax return. This return shall be used only by corporations whose entire net income is attributable to Wisconsin. It may not be used by tax-option (S) corporations or corporations which determine their Wisconsin net income by the apportionment or separate accounting method.

(l) Form 5E. Election by an S corporation not to be treated as a tax-option corporation.

(m) Schedule 5K-1. Tax-option (S) corporation shareholder's share of income, deductions, etc.

(n) Form 5R. Revocation of election by an S corporation not to be a tax-option corporation.

(o) Form 5S. Tax option (S) corporation franchise or income tax return.

(p) Form 5S-1. Tax-option (S) corporation supplemental schedules.

(q) Form 4466W. Corporation application for quick refund of overpayment of estimated tax.

(r) Form CU. Credit union declaration of exempt status.

(s) Schedule CU-1. Credit union net income.

(t) Schedule DC. Development zone credits.

(u) Schedule FC. Farmland preservation credit claim.

(v) Schedule FT. Farmland tax relief credit.

(w) Schedule HR. Historic rehabilitation credits.

(x) Schedule R. Research credits.

(2) INFORMATION RETURNS. Information returns required of corporations are specified in s. Tax 2.04.

(3) SIGNATURES. An officer of the corporation shall sign all returns required to be filed. If a return is prepared by someone other than an employee or officer of the corporation, the person preparing the return shall also sign as preparer.

(4) FILING RETURNS. All forms and information required to be filed or furnished by corporations shall be delivered to the department or mailed to the address specified by the department on the form or in the instructions.

Note: Forms may be delivered in person to the Department of Revenue at 4638 University Avenue, Madison, Wisconsin. Blank forms may be obtained at the

same location, or by mail request to Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

SECTION 2. Tax 2.04 is repealed and recreated to read:

Tax 2.04 INFORMATION RETURNS AND WAGE STATEMENTS. (ss. 71.26(3)(e), 71.65(2), 71.67(4) and (5), 71.70, 71.71(2), 71.72, 71.74(4) and 71.80(20), Stats.) (1) DEFINITION. In this section, "person" means an individual, trust, estate, partnership, limited liability company, association or corporation.

(2) COMPENSATION FOR SERVICES. Under ss. 71.65(2), 71.71(2), 71.72 and 71.80(20), Stats., all persons carrying on activities within this state, whether taxable or not under ch. 71, Stats., are required to file with the department, on federal form W-2 or 1099-R, on Wisconsin form 9b or other forms approved by the department, or on magnetic media or in other machine-readable form, a statement of certain payments made within the preceding calendar year. For individuals who are residents of Wisconsin, the statement shall set forth the salaries, wages, bonuses, commissions, annuities, pensions, retirement pay, fees or other remuneration paid for services whether subject to withholding or not. For individuals who are nonresidents, the statement shall include all payments for the performance of personal services in Wisconsin, whether subject to withholding or not, except retirement plan distributions identified in s. Tax 3.085 as being exempt from Wisconsin income tax. A copy of federal form 1099 may be filed in lieu of Wisconsin form 9b. The following shall also apply with respect to compensation for services:

(a) All payments which are wages within the definition under s. 71.63(6), Stats., regardless of amount, shall be reported on federal form W-2 or on magnetic media or in other machine-readable form.

(b) All payments which are not wages within the definition under s. 71.63(6), Stats., but from which Wisconsin income tax has been withheld, shall be reported on federal form W-2 or 1099-R, as appropriate, or on magnetic media or in other machine-readable form.

(c) Payments of \$600 or more which are not wages within the definition under s. 71.63(6), Stats., and from which no Wisconsin income tax has been withheld, shall be reported on Wisconsin form 9b or federal form 1099, or on magnetic media or in other machine-readable form. However, if the payment was to an employe for whom a form W-2 is required under par. (a) or (b), the payment, regardless of amount, shall be included on form W-2.

(d) All statements required shall be filed by January 31, by delivering or mailing them to the department. Form WT-7, "Employer's Annual Reconciliation of Wisconsin Income Tax Withheld From Wages," shall accompany the statements submitted, either on paper or on magnetic media or in other machine-readable form, if the employer is required to be registered to withhold Wisconsin income taxes from employes' wages.

Note: Forms may be delivered in person to the Department of Revenue at 4638 University Avenue, Madison, Wisconsin. Forms filed on magnetic media may be mailed to Wisconsin Department of Revenue, 4638 University Ave., P.O. Box 8903, Madison, WI 53708-8903. Forms W-2 or 1099-R filed on paper may be mailed to Wisconsin Department of Revenue, P.O. Box 8920, Madison, WI 53708-8920. Corporations may mail forms 9b or substitute forms filed on paper to Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908. Persons other than corporations may mail forms 9b or substitute forms filed on paper to Wisconsin Department of Revenue, P.O. Box 59, Madison, WI 53785.

(e) Sections 71.65(5) and 71.73(2), Stats., permit a thirty-day extension of time to file the statements described in this subsection. A written request may be sent to the department and to be effective shall be postmarked on or before the due date of the statements. The department's approval of the extension shall be attached to the statements when they are filed with the department.

Note: Written requests for extensions may be mailed to Wisconsin Department of Revenue, P.O. Box 8920, Madison, WI 53708-8920.

(3) RENTS AND ROYALTIES. Under ss. 71.70 and 71.80(20), Stats., except as provided in par. (d), all persons making payments of rents and royalties of \$600 or more to individuals who are residents of Wisconsin, regardless of where

the property is located, and to nonresident individuals if the property is located in Wisconsin, shall file with the department, on form 9b or an approved substitute form, or on magnetic media or in other machine-readable form, a statement of payments made in the preceding calendar year. The following shall also apply with respect to rents and royalties:

(a) A copy of federal form 1099-MISC may be filed in lieu of Wisconsin form 9b.

(b) Corporations shall file by March 15 and payers other than corporations shall file by April 15, by delivering or mailing the statements to the department.

Note: Forms may be delivered in person to the Department of Revenue at 4638 University Avenue, Madison, Wisconsin. Forms filed on magnetic media may be mailed to Wisconsin Department of Revenue, 4638 University Ave., P.O. Box 8903, Madison, WI 53708-8903. Corporations may mail forms filed on paper to Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908. Persons other than corporations may mail forms filed on paper to Wisconsin Department of Revenue, P.O. Box 59, Madison, WI 53785.

(c) No extension of time for filing forms 9b or substitute forms to report payments of rents or royalties may be allowed.

(d) The requirement to file form 9b or a substitute form does not apply to persons other than corporations who do not deduct the payments in determining Wisconsin taxable income.

(4) GAMBLING WINNINGS. (a) Under s. 71.67(4)(c), Stats., the administrator of the gaming commission's lottery division shall file with the department a statement of winnings for each lottery prize of \$2,000 or more paid in the preceding calendar year.

(b) Under s. 71.67(5)(d), Stats., all persons licensed to sponsor and manage races under s. 562.05(1)(b) or (c), Stats., shall file with the department a statement of winnings for each pari-mutuel wager payment of more than \$1,000 paid in the preceding calendar year.

(c) The winnings required to be reported in pars. (a) and (b) shall be reported on federal form W-2G or on an approved substitute form.

(d) The statements required in pars. (a) and (b) shall be filed by January 31, by delivering or mailing them to the department.

Note: Forms W-2G or substitute forms may be delivered in person to the Department of Revenue at 4638 University Avenue, Madison, Wisconsin. Forms filed on magnetic media may be mailed to Wisconsin Department of Revenue, 4638 University Ave., P.O. Box 8903, Madison, WI 53708-8903. Forms filed on paper may be mailed to Wisconsin Department of Revenue, P.O. Box 8920, Madison, WI 53708-8920.

(e) No extension of time for filing forms W-2G or substitute forms to report payments of lottery prize winnings or pari-mutuel wager winnings may be allowed.

(5) DISALLOWANCE OF DEDUCTIONS. Items to be reported on forms W-2, 1099-R, 9b or substitute forms may be disallowed as deductions from gross income if not properly reported.

(6) MAGNETIC MEDIA REQUIREMENT. (a) Under s. 71.80(20), Stats., if the internal revenue service requires a person to file wage statements or information returns on magnetic media or in other machine-readable form, comparable wage statements or information returns shall also be filed on magnetic media or in other machine-readable form with the department of revenue.

(b) A person shall be required to file wage statements or information returns on magnetic media or in other machine-readable form with the department of revenue only if both of the following conditions apply:

1. Wage statements or information returns comparable to those required to be filed on magnetic media or in other machine-readable form with the internal revenue service are also required to be filed with the department of revenue.

2. The wages or income reported on the wage statements or information returns are required to be reported to Wisconsin.

(c) 1. If fewer than 250 of any one type of wage statement or information return are required to be filed with the department, the department shall waive the requirement to file that type of wage statement or information return on magnetic media or in other machine-readable form.

2. If a payer participates in the combined federal/state filing program for forms 1099, the department shall waive the requirement to file those forms 1099 or comparable information returns on magnetic media or in other machine-readable form.

3. If a payer receives a waiver from the department, the payer is not required to file wage statements or information returns on magnetic media or in other machine-readable form with the department.

(7) COMBINED FILING PROGRAM. Payers who participate in the combined federal/state filing program with the internal revenue service and report to the internal revenue service items which are required to be filed on Wisconsin form 9b or a substitute form, are not required to file separate information returns for those items with the department of revenue.

Note: 1) Under the combined federal/state filing program, the internal revenue service will forward information from the information returns to the department of revenue.

2) The requirement to file Wisconsin wage statements or information returns on magnetic media or in other machine-readable form if the internal revenue service requires comparable statements to be filed in that manner for federal purposes is effective January 1, 1992, as a result of the creation of s. 71.80(20), Stats., by 1991 Wis. Act 39.

3) The requirement of payers to report lottery prize winnings and pari-mutuel wager winnings to the department is effective with winnings received by a payee on or after August 12, 1993, as a result of the creation of s. 71.67(4)(c) and (5)(d), Stats., by 1993 Wis. Act 16.

SECTION 3. Tax 2.08 is repealed and recreated to read:

Tax 2.08 RETURNS OF PERSONS OTHER THAN CORPORATIONS. (ss. 71.03(2), 71.20(1) and 71.55(3), Stats.) (1) FORMS. For the purpose of filing income

tax returns and credit claims, the secretary of revenue has designated the following forms for the use of persons other than corporations:

(a) Individuals and fiduciaries. 1. Form 1. Income tax. This return may be used by individuals who are full-year Wisconsin residents, whether married filing a joint return, married filing a separate return, filing as head of household or filing as single.

2. Form 1A. Income tax. This is an optional short form return which may be used by individuals who are full-year Wisconsin residents and filing as married filing a joint return, head of household or single.

3. Form WI-Z. Income tax. This is an optional short form return which may be used by individuals who are full-year Wisconsin residents and filing as married filing a joint return or single.

4. Form 1NPR. Income tax - nonresident and part-year resident. This return shall be used by individuals who are nonresidents of Wisconsin or part-year residents of Wisconsin, regardless of filing status.

5. Form 1X. Income tax - amended return. This return may be used by full-year Wisconsin resident individuals to amend form 1, 1A or WI-Z.

Note: Nonresident and part-year resident individuals shall use form 1NPR marked "amended return" to amend form 1NPR.

6. Form 1CNP. Combined individual and fiduciary income tax return for nonresident partners. This form may be used by nonresident partners and nonresident members of limited liability companies treated as partnerships.

7. Form 1CNS. Combined individual and fiduciary income tax return for nonresident tax-option (S) corporation shareholders.

8. Form 2. Fiduciary income tax return. This return may be used by estates and trusts, except exempt trusts with unrelated business taxable income.

9. Form 4T. Exempt organization business franchise or income tax return. This return shall be used by exempt trusts with unrelated business taxable income.

10. Form 1-ES. Estimated tax voucher. This form may be used by individuals, estates and trusts, except exempt trusts with unrelated business taxable income.

11. Form 4-ES. Corporation estimated tax voucher. This form shall be used by exempt trusts with unrelated business taxable income.

12. Form CN-ES. Composite estimated tax voucher. This form may be used by nonresident partners, members or shareholders using form 1CNP or 1CNS.

13. Schedule 2K-1. Beneficiary's share of income, deductions, etc.

14. Schedule 2440W. Disability income exclusion.

15. Schedule DC. Development zone credits.

16. Schedule EICW. Earned income credit.

17. Schedule FC. Farmland preservation credit claim.

18. Schedule H. Homestead credit claim.

19. Schedule HR. Historic rehabilitation credits.

20. Schedule I. Adjustments to convert federal adjusted gross income and itemized deductions to the amounts allowable under the applicable year's internal revenue code.

21. Schedule MT. Alternative minimum tax.

22. Schedule T. Transitional adjustments.

23. Schedule U. Underpayment of estimated tax by individuals and fiduciaries. This form may be used by individuals, estates and trusts, except exempt trusts with unrelated business taxable income.

24. Schedule 4U. Underpayment of estimated tax by corporations. This form shall be used by exempt trusts with unrelated business taxable income.

25. Schedule WD. Capital gains and losses. This form may be used by individuals.

26. Schedule WD (form 2). Capital gains and losses. This form may be used by estates and trusts, except exempt trusts with unrelated business taxable income.

27. Form 401T. Report of estate or inheritance tax payment.

28. Form W706. Estate tax return.

(b) Partnerships and limited liability companies treated as partnerships. 1. Form 3. Partnership return.

2. Schedule 3K-1. Partner's share of income, deductions, etc.

3. Form 3S. Partnership temporary recycling surcharge.

4. Form 3S-ES. Partnership estimated surcharge voucher.

5. Schedule D. Development zone credits.

6. Schedule HR. Historic rehabilitation credits.

(2) INFORMATION RETURNS. Information returns required of persons other than corporations are specified in s. Tax 2.04.

(3) FILING RETURNS. All forms and information required to be filed or furnished by persons other than corporations shall be filed or furnished by providing the information requested on the appropriate forms, signing the returns or forms as appropriate, and delivering them to the department or mailing them to the address specified by the department on the form or in the instructions.

Note: Forms may be delivered in person to the Department of Revenue at 4638 University Avenue, Madison, Wisconsin. Blank forms may be obtained at the same location, or by mail request to Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

SECTION 4. Tax 2.10 is repealed and recreated to read:

Tax 2.10 COPIES OF FEDERAL RETURNS, STATEMENTS, SCHEDULES, DOCUMENTS, ETC. TO BE FILED WITH WISCONSIN RETURNS. (ss. 71.03(5) and 71.20(1), Stats.) (1)

INDIVIDUALS AND FIDUCIARIES. At the time of filing Wisconsin income tax returns by individuals and fiduciaries, a complete copy of the federal income tax return for the same taxable year, including all schedules, statements, documents and computations which affect the computation of Wisconsin income, credits or penalties, shall be included and filed with the Wisconsin return. Copies of the short form federal returns 1040A and 1040EZ are not required to be filed if a Wisconsin form 1A or WI-Z is being filed for the same taxable year. If the federal form is filed electronically, a copy of the electronic material as contained in replicas of the official forms or on forms designated by the electronic filer shall be included and filed with the Wisconsin return.

(2) PARTNERSHIPS AND LIMITED LIABILITY COMPANIES TREATED AS PARTNERSHIPS.

(a) Except as provided in par. (b), at the time of filing Wisconsin income tax returns by partnerships and limited liability companies treated as partnerships under s. 71.20(1), Stats., a complete copy of the federal income tax return for the same taxable year, including all schedules, statements, documents and computations which affect the computation of Wisconsin income, deductions and credits, shall be included and filed with the Wisconsin return. If the federal form is filed electronically, a copy of the electronic material as contained in replicas of the official forms or on forms designated by the electronic filer shall be included and filed with the Wisconsin return.

(b) Copies of the federal schedules K-1 are not required to be filed for those partners or members for whom a Wisconsin schedule 3K-1 is being filed for the same taxable year. A Wisconsin schedule 3K-1 shall be filed in lieu of federal schedule K-1 for a partner or member if any of the following applies:

1. The computation of the Wisconsin income or deductions differs from the federal amount.

2. The partner or member is a nonresident of Wisconsin or part-year resident of Wisconsin and the partnership or limited liability company has

activities within and without Wisconsin.

3. The partnership or limited liability company calculates any Wisconsin income tax credits.

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.

Dated: _____

APR 13, 1995

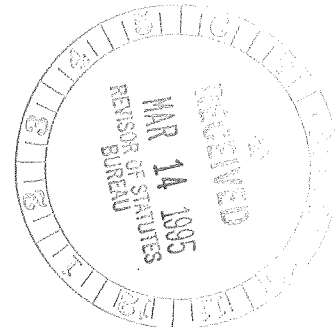
DEPARTMENT OF REVENUE

By: _____

[Signature]

Mark D. Bugher
Secretary of Revenue

CKLEG/1530



LRB or Bill No./Adm. Rule No.

TAX 2.03; 2.04; 2.08; 2.10

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 (R10/92)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Filing of Tax Forms and Information Returns

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 VTAE Districts
 School Districts Others _____

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed rule order repeals and recreates four income tax rules relating to the filing of various tax forms and information returns. It is anticipated that these changes will have no significant fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue
Bruce Biermeier, 266-7396

Authorized Signature/Telephone No.

Dennis Collier 266-5773 *Dennis Collier*

Date

8/1/94



State of Wisconsin ● DEPARTMENT OF REVENUE

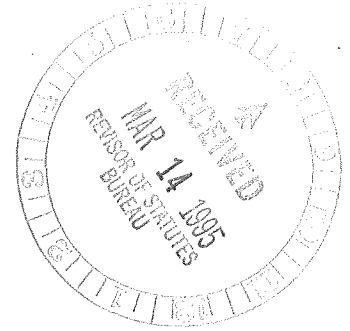
125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708-8933 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

March 13, 1995

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

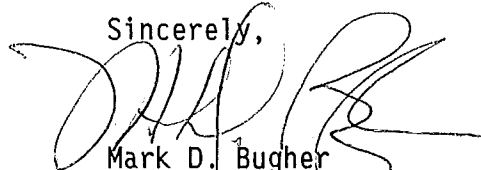


Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 94-152.

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

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/66

Enclosure

cc: Revisor of Statutes Bureau



State of Wisconsin • DEPARTMENT OF REVENUE

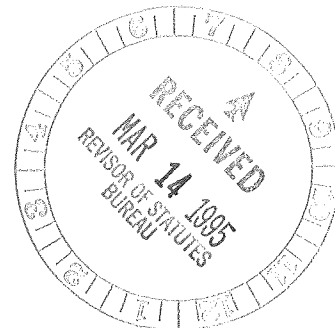
125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

March 13, 1995

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



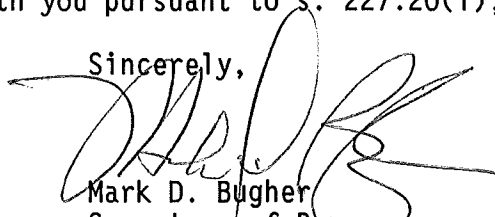
Re: Clearinghouse Rule 94-152

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to income taxes.

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

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/67

Enclosure

cc: Douglas J. LaFollette, Secretary of State
Commerce Clearing House, Inc.
Research Institute of America, Inc.