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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 477: Individual Income Tax Deduction for Organ Donors

Assembly Bill 477 would create an individual income tax deduction for expenses related to the donation of a human organ. The bill was introduced on August 22, 2003, and referred to the Assembly Committee on Public Health and to the Joint Survey Committee on Tax Exemptions. On September 25, 2003, the Committee on Public Health recommended the bill for passage by a vote of 8 to 0, and the bill was referred to the Joint Committee on Finance. To date, the Joint Survey Committee on Tax Exemptions has not acted on the bill.

CURRENT LAW

Under the current state individual income tax provisions, taxpayers subtract personal exemptions and the sliding scale standard deduction from Wisconsin adjusted gross income to determine taxable income. The amount of the standard deduction is phased out for higher income taxpayers.

In addition, if allowable itemized deductions exceed the sliding scale standard deduction, the excess amount is eligible for a tax credit of 5%. With certain exceptions, allowable expenses used in calculating the state credit generally conform to the expenses permitted as federal itemized deductions, including medical expenses exceeding 7.5% of federal adjusted gross income.

Under federal law, deductible medical expenses include out-of-pocket surgical, hospital, laboratory, transportation, and lodging expenses of organ donors or possible organ donors. When transportation costs are deducted, the cost of operating a car may be calculated at a standard rate of 12 cents per mile (plus parking fees and tolls) in lieu of actual expenses incurred. The lodging deduction is limited to amounts that are not lavish or extravagant and cannot exceed $50 per night for each individual. The deduction may be claimed for the individual seeking medical care and for a person who must accompany that individual. Meals are not deductible. Federal law and the state credit do not allow a deduction for lost wages incurred by organ donors.

SUMMARY OF BILL

The bill would create an individual income tax deduction for up to $10,000 if a taxpayer, while living, donates one or more of his or her human organs to another human being for human organ transplantation. For purposes of the tax deduction, "human organ" would mean all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. The deduction could be claimed in the taxable year in which the transplant occurs.

The deduction could be claimed only once and only for unreimbursed travel and lodging expenses and lost wages that are incurred by the claimant and related to the claimant's organ donation. As drafted, it appears that the bill would allow the deduction for organs donated by the taxpayer or his or her spouse, but not for dependent children or dependent adults who do not file their own income tax returns.

The deduction could not be claimed by a part-year resident or nonresident of this state.

As under current law, taxpayers who claim the deduction would also be able to claim transportation and lodging expenses associated with the donation of an organ for purposes of the itemized deduction credit.

The deduction would first apply to taxable years beginning on January 1 of the year in which the bill takes effect (the day after publication), unless the bill takes effect after July 31. In that case, the deduction would first apply to taxable years beginning on January 1 of the following year.

FISCAL EFFECT

Assuming the new deduction would first apply to the 2004 tax year, the bill would reduce state income tax revenues by an estimated $115,000 annually, beginning in 2004-05. This estimate is based on information from the United Network for Organ Sharing, Living Donors Online, and the U.S. Bureau of Labor Statistics.

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