

STATEMENT OF SCOPE

Department of Revenue

Rule No.: Section Tax 2.955

Relating to: Credit for tax paid to another state

Rule Type: Permanent

This scope statement was approved by the Governor on January 24, 2020.

1. Detailed description of the objective of the proposed rule:

Pass-through entities electing to pay tax at the entity level under secs. 71.21 (6) (a) or 71.365 (4m) (a), Stats., may also claim a credit for tax paid to another state under certain circumstances. The objective of the proposed rule is to add references to these laws, add examples for these laws, and clarify that a resident individual may not claim a credit for taxes paid by an entity that elects to pay tax at the entity level under secs. 71.21 (6) (a) or 71.365 (4m) (a), Wis. Stats. In addition, references to Wisconsin minimum tax should be removed as minimum tax no longer applies for Wisconsin for taxable years beginning on or after January 1, 2019.

2. Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing policies are as set forth in the rules. New policy is being proposed to reflect the law changes described above. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Under sec. 71.21 (6) (e), Stats., the department may promulgate rules relating to the entity level tax election for partnerships.

Under sec. 71.365 (4m) (e), Stats., the department may promulgate rules relating to the entity level tax election for tax-option (S) corporations

Section 227.11 (2), Stats., provides statutory rule-making authority as follows:

(a) "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

(b) "Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating the policies as rules ..."

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates it will take approximately 100 hours to develop the rule.

5. List with description of all entities that may be affected by the proposed rule:

Pass-through entities who make an election to pay tax at the entity level.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

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

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No economic impact is anticipated.

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