



WISCONSIN DEPARTMENT OF
ADMINISTRATION

JIM DOYLE
GOVERNOR
MICHAEL L. MORGAN
SECRETARY

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842

To: Interested Wisconsin Municipalities

From: Cari Anne Renlund, Chief Legal Counsel

Date: February 11, 2009

Re: Annual Notification for Direct Distribution of School Tax, Lottery and Gaming Credits

A number of Wisconsin municipalities have recently asked whether the notification procedure regarding the direct distribution of school tax, lottery and gaming credits in Wis. Stats. s. 79.10(7m)(cm) (2007-08) is an annual requirement. After reviewing the statute, we have concluded that the direct distribution notification must be made each year. Below is an analysis of the applicable law.

Before the enactment of 2007 Wisconsin Act 190, the Department of Administration ("DOA") was required to distribute monies from tax credits to towns, villages, or cities pursuant to Wis. Stats. s. 79.10 (2005-06). This provision was amended by 2007 Wisconsin Act 190 to require DOA to distribute amounts from school tax, lottery and gaming credits to counties. Once the counties receive the distributed amounts from DOA, it is the counties' duty to re-distribute to towns, villages or cities accordingly. See Wis. Stats. s. 79.10(7m)(a) 2. (2007-08).

There is one exception, however. Wis. Stats. s. 79.10(7m)(cm) (2007-08) allows certain municipalities to receive distributions directly from DOA. The statute provides:

If, *in any year*, the total of the amounts determined under subs. (4) and (5) for any municipality is \$3,000,000 or more, the municipality, with the approval of the majority of the members of the municipality's governing body, may notify the department of administration to distribute the amounts directly to the municipality and the department of administration shall distribute the amounts at the time and in the manner provided under pars. (a) 1. and (b) 1.

See Wis. Stats. s. 79.10(7m)(cm) 1.a. (2007-08)(emphasis added).

Thus, in order to receive distribution directly from DOA, a municipality must first determine whether its school tax, lottery and gaming credits exceed \$3,000,000 "*in any year*." The statute clearly contemplates an *annual* assessment of whether a locality has met the \$3,000,000 threshold. This is particularly true since municipalities do not necessarily receive the same credit amount each year. Only after that threshold has been met, may those municipalities and their governing bodies notify DOA to distribute the amounts directly, thus bypassing the counties. The notification must, therefore, be made annually.

cc: Dan Schooff, Deputy Secretary
David Schmiedicke, Director, State Budget Office