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**2007 Wis Eth Bd 05**  
**DISQUALIFICATION**

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¶1 The Ethics Board advises that a legislator not participate in any discussions, debate, or votes on a proposed budget provision that would provide tax credits totaling several million dollars to each of only a handful of businesses in Wisconsin and the value of the credits to the legislator's family could be as much as several thousand dollars. If the proposal is incorporated in the budget, it will not be an obstacle to the legislator's participation in the consideration of other budget provisions or the budget as a whole.

Facts

- ¶2 This opinion is based upon these understandings:
- a. You are a member of the Legislature.
  - b. You recently invested in a manufacturing plant.

Question

¶3 The Ethics Board understands your question to be:

Is the Ethics Code an obstacle to your participation in the consideration of, or vote on, a proposal for the budget to create a tax credit for plants such as the plant in which your family has invested?

Discussion

¶4 Two provisions of Wisconsin's Ethics Code are pertinent to your question - §§19.45 (2) and 19.46 (1), *Wisconsin Statutes*. These sections, reduced to their elements, provide that:

No state public official  
May use his or her public position or office  
To obtain anything of substantial value or to produce a substantial benefit  
For the private benefit  
Of the official, a member of the official's immediate family, or an organization  
with which the official is associated; and

No state public official  
May take any official action  
Substantially affecting a matter  
In which the official, a member of the official's immediate family, or an  
organization with which the official is associated  
Has a substantial financial interest.<sup>1</sup>

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<sup>1</sup> Section 19.45(2), *Wisconsin Statutes*, provides:

¶5 You are a state public official by virtue of being a member of the Legislature.<sup>2</sup> A “substantial value” and “substantial interest” is anything of more than token or inconsequential value.<sup>3</sup> The proposal would create a direct, measurable financial benefit for a business in which your family has an ownership interest. Although your family’s ownership interest in the business is small, the tax benefit could nevertheless be worth several thousand dollars to your family, which is not token or inconsequential.<sup>4</sup>

### Advice

¶6 The Ethics Board advises that you not participate in any discussions, debate, or votes on a proposed budget provision that would provide tax credits totaling several million dollars to each of only a handful of businesses in Wisconsin and the value of the credits to your family could be as much as several thousand dollars. If the proposal is incorporated in the budget, it will not be an obstacle to your participation in the consideration of other budget provisions or the budget as a whole.

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**Standards of conduct; state public officials. (2)** No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

Section 19.46(1), *Wisconsin Statutes*, provides:

**19.46 Conflict of Interest Prohibited; Exception. (1)** Except in accordance with the board's advice under sub. (2) and except as otherwise provided in sub. (3), no state public official may:

(a) Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

(b) Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

<sup>2</sup> Section 19.42(13)(c), *Wisconsin Statutes*.

<sup>3</sup> See, e.g., 7 Op. Eth. Bd. 2 (1983); 5 Op. Eth. Bd. 99 (1982).

<sup>4</sup> The tax credit for the plant could be several million dollars. Your family has an ownership interest of approximately .1%. That percentage of the tax credit is several thousand dollars.