II. Department of Revenue – Cate Zeuske, Secretary

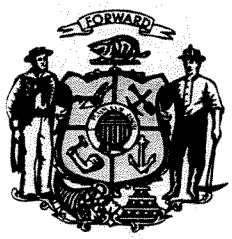
The department submits to the Joint Committee on Finance a proposal for a tax amnesty program pursuant to section 9143(2mf) of 1997 Wisconsin Act 27.

Governor's Recommendation

Approve the request. Follow up legislation would be needed in January 1998 to successfully implement a program beginning in June 1998.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY



Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864

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Date: December 18, 1997

To: Members, Joint Committee on Finance

From: Mark D. Bugher, Secretary
Department of Administration

Subject: Section 13.10 Request from the Department of Revenue regarding implementation of a tax amnesty program

Request

The department submits to the Joint Committee on Finance a proposal for a tax amnesty program pursuant to section 9143(2mf) of 1997 Wisconsin Act 27.

Background

1997 Act 27, the 1997-99 biennial budget bill, requires the Department of Revenue to develop a proposal for a tax amnesty program that is materially similar to the tax amnesty program conducted in Wisconsin in 1985. The bill requires that this proposal be submitted to the Joint Committee on Finance and specifies that the Committee may modify the Department's proposal to ensure that it is materially similar to the 1985 program.

The Department's proposal to the Committee is the precursor to a formal legislative proposal; this proposal does not request supplemental funding from the Committee's appropriation. Provisions for a tax amnesty program must be included in separate legislation to be considered by the full Legislature.

Analysis

The Department's proposal includes three components: (1) a request for funding to administer the amnesty program, including $448,425 GPR in FY98 and $1,509,545 GPR in FY99; (2) proposed administrative provisions for the amnesty program, including application requirements, application period, eligible obligations, payment requirements, and the destination of amnesty proceeds; and (3) recommended post-amnesty enforcement tools which are designed to increase the Department's ability to enforce tax laws following the close of the amnesty program.

Follow up legislation would be needed by January 1998 in order to successfully implement an amnesty program beginning in June 1998 (DOR has proposed an application period of June 15 - August 14, 1998).

Request for Funding

DOR's request for funding includes the following:

	FY98	FY99
Mailings to potential applicants	$ 68,900	$ 0
Practitioner informational kits	16,350	0
Amnesty application forms and notices	2,950	22,320
Advertising (TV, radio and print)	125,500	743,400
Interactive voice response system	6,000	0
Permanent salaries (overtime)	0	348,000
LTE salaries	10,000	60,400
Fringe benefits	0	140,200
Contractual services (telephone answering)	20,000	85,000
Space rental, equipment, general supplies	88,000	71,900
Payment processing (postage)	0	450
Contract programming (1200 hours)	90,000	30,000
Space rental for contractors	2,525	875
DOA Infotech charges	16,500	5,500
Travel (speaking engagements for promotion)	1,500	1,500
Total	$ 448,425	$ 1,509,545

Recommendation

Approve the request. Follow up legislation would be needed in January 1998 to successfully implement a program beginning in June 1998.

Prepared by: Sherrie Gates-Hendrix, 6-1805
Michelle New, 6-8593

State of Wisconsin • DEPARTMENT OF REVENUE

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Tommy G. Thompson
Governor

Cate S. Zeuske
Secretary of Revenue

December 5, 1997

The Honorable Brian Burke, Co-Chair
The Honorable John Gard, Co-Chair
Members, Joint Committee on Finance
115 South Capitol
Madison, WI 53702

Dear Senator Burke and Representative Gard:

This letter amends the original submission of November 20, 1997, by withdrawing its status as a request for funding and submitting it as a plan proposal as directed by the 1997-1999 Budget Bill. I have also included another copy of the plan which has since been modified (specifically pages 18, 19 and attachment 2).

The 1997 Wisconsin Act 27 directed the Department of Revenue submit a plan for a tax amnesty program to the Joint Committee on Finance for its consideration. This letter and the attached documents propose a plan for a tax amnesty in 1998.

The proposed 1998 tax amnesty program is similar to the 1985 tax amnesty program in that it would allow limited forgiveness of existing tax delinquencies; and forgiveness of penalties, fees and a portion of interest on eligible tax obligations that have not been previously reported to the department or have not been entered to the delinquent roll. The proposed program would also require applications from taxpayers, all required returns to be filed and full payment of any remaining balances due within a pre-determined time. The proposed taxpayer application period begins June 15, 1998 and ends August 14, 1998.

The 1998 program plan proposes a number of differences from the 1985 program that are designed to help ensure the new program's success. Included in the program is a requirement for payment of up to $200 with the amnesty application, extensive use of publicity, and use of an interactive voice response application for telephone inquiries. The plan proposes the following exclusions from the new program:

- Obligations resulting from field audits issued under s. 71.74(2) and s. 77.59(2) would not be eligible for amnesty. The 1997 Wisconsin Act 27 included a separate provision for additional revenue from field audits and the department is concerned about double counting revenue if field audit obligations are eligible.

- Local option tax obligations would not be eligible for amnesty. It is questionable whether the legislature has the authority to grant amnesty on local option taxes.

- No part of the delinquent tax collection fee would be forgiven based on reduced amounts due under amnesty. The department's delinquent tax collection program depends on revenue from this fee to operate; this program should not be jeopardized by amnesty.

The plan includes recommendations for new statutory enforcement tools which should take effect immediately after the amnesty period to increase the incentive for delinquent taxpayers to take advantage of amnesty and to ensure continued taxpayer compliance with the tax laws. These recommendations are included for legislative review.

The plan also identifies expenditures required to develop and conduct a successful tax amnesty program. Similar to the 1985 program, the new program will require the creation of a separate Amnesty Unit. Funding will be required in 1997-98 to acquire equipment and space for the Amnesty Unit, print tax amnesty applications and brochures about the program, develop publicity and promotion activities, run television, radio and newspaper advertisements, develop an interactive voice response application, develop computer processes to support the program, and provide telephone assistance. Funding will be required in 1998-99 to print and send notices of balance due to amnesty applicants, run newspaper, television and radio advertisements, and provide permanent overtime salaries, LTE salaries and other support for Amnesty Unit operations.

Program funding requirements detailed in the attached plan are for information purposes. Funding and legislation initiatives will be sought through separate legislation.

We hope you will look favorably upon our proposal to conduct the program in an effective manner and to ensure that Wisconsin taxpayers will continue to have faith in the integrity and fairness of the Wisconsin tax system.

Sincerely,

Cate S. Zeuske
Secretary of Revenue

CZ/meh
Attachments

TAX AMNESTY PROGRAM ACTION PLAN

A. DESCRIPTION AND FACT FINDING

Purpose of Action Plan

1997 Wisconsin Act 27 requires the Wisconsin Department of Revenue (WDOR) to develop a proposal for a tax amnesty program that is materially similar to Wisconsin's 1985 tax amnesty and to present it to the Joint Committee on Finance in December 1997. Based on the 1985 Wisconsin amnesty program, the Legislative Fiscal Bureau projected increased general fund revenue collections of $40 million from an amnesty program. This action plan outlines WDOR's plan for an amnesty program and describes the enabling legislation and resources needed to accomplish the plan.

Description of Wisconsin's First Amnesty Program

Goals of 1985 Amnesty Program

Wisconsin enacted a tax amnesty program in 1985, during a period when many state governments were considering and implementing amnesty programs. The amnesty program was offered to taxpayers as a one-time opportunity to clear up their previous tax liabilities at a reduced cost. It was enacted in combination with tougher enforcement measures as part of an overall plan to increase the level of compliance with the state's tax laws. The goals identified for this program were to reduce the number of persons on the delinquent tax roll, to bring taxpayers with unknown liabilities into the system, and to improve the overall level of compliance in the future. The revenue collected in the amnesty program was earmarked to fund a new property tax deferral program for elderly homeowners.

Provisions of 1985 Amnesty Program

The tax amnesty program established by 1985 Wisconsin Act 29 applied to all of the state taxes collected by WDOR at that time. The period during which amnesty applications were accepted ran from September 15 to November 22, 1985. Three categories of liabilities and forgiveness were identified:

- For unpaid liabilities that were on record as delinquent as of May 15, 1985, 20% of the delinquent balance was forgiven, up to a maximum of $5,000. Amnesty was not allowed unless all tax returns or other documents corresponding with the liability were properly filed with WDOR.

- For unpaid liabilities that were established before or during the amnesty period, but were not yet recorded as delinquent on May 15, 1985, WDOR waived penalties and fees and lowered the interest rate from 1-1/2% per month to 1% per month.

- For unpaid liabilities that were neither reported nor established, the taxpayers were allowed to file returns and make payments. WDOR waived penalties and fees, lowered the interest rate from 1-1/2% per month to 1% per month and waived the right to seek prosecution.

Some situations were excluded from the amnesty program:

- Liabilities that were under appeal to WDOR, the Tax Appeals Commission or a court, unless the appeal was withdrawn by the taxpayer.

- Persons subject to a tax-related criminal investigation or pending criminal prosecution relating to the taxes administered by WDOR.

- Amounts subject to civil collection actions (for example, garnishments or executions) by WDOR initiated before the amnesty application was received, including civil collection actions against nonresident accounts assigned to a collection agency by WDOR.

- Taxpayers notified during the amnesty period of an adverse determination of his or her appeal to the Tax Appeals Commission or any court.

In addition, when persons who applied for amnesty failed to pay the balance due under amnesty, or made only partial payment, the forgiveness of amounts due or waiver of penalties, fees and interest were withdrawn.

Results of Amnesty Program

WDOR received 25,700 applications for amnesty during the 1985 program, 11,200 of them on the final day of the application period. Of these applicants, slightly less than half actually filed the returns and made the payments necessary to qualify for forgiveness under amnesty.

The total amount collected under amnesty was $26.8 million dollars. A total of $6.9 million of liability was forgiven in amnesty. The dollars collected were broken down as follows: 43% from sales tax, 25% from individual income tax, 22% from corporate income tax and the remainder from other taxes.

The number of taxpayers on the delinquent tax roll was reduced by 5,750, or 8%. The dollars of delinquent taxes collected were $7.2 million, or 3.5% of the pre-amnesty delinquent roll.

The remaining $19.6 collected in amnesty came from liabilities that were not yet delinquent. Only 235 applications came from persons previously unknown to WDOR. Amnesty collections can be broken down as follows based on the work area in which the collection occurred:

Work Area	Type of Bills	Collections
Appellate	Bills from all sources that have been appealed	*$5,056,548
Audit	Office audits for income and corporations, field audits for income, corporation & sales taxes	*$6,374,435
Central Compliance	Processing bills, office audits and estimated assessments for sales and withholding taxes	$7,052,936
Inheritance & Excise	All bills for inheritance, motor fuel, beverage and tobacco taxes	$423,849
Collection & Accounting	Processing bills for income and corporation taxes	$692,232

* Of the bills collected in Appellate and Audit, approximately $8 million dollars resulted from field audits.

Of those applying for amnesty on nondelinquent liabilities, 239 were for amounts under appeal, where the applicant had to withdraw the appeal to qualify for amnesty. Approximately half of these liabilities were field audits of businesses that had appealed the assessment of a negligence penalty. Approximately 1,000 more of those who applied for amnesty on nondelinquent liabilities represented field audits that had not been appealed or had not yet gone delinquent. The tax and interest on these liabilities would probably have been collected regardless of an amnesty program.

The Audit Bureau maintains a list of taxpayers that are regularly reaudited, either because of their size or because past audits have identified problems that may continue. Over 50 of the taxpayers that applied for amnesty fell into this category, making 16 of the 50 largest amnesty payments. The tax and interest on these liabilities would probably also have been collected regardless of an amnesty program.

In order to administer the amnesty program, WDOR incurred costs of $959,700. This amount included the cost of advertising, mailings to taxpayers, an 800 number, limited

term employes and over 14,500 hours of overtime worked by department employes. The 64,000 hours devoted to the amnesty program in total are the equivalent of 30 years of staff time. The ratio of amnesty collections to program costs was 28 to one.

Problems with the 1985 Program

Several problem areas were identified in the 1985 amnesty program:

- Many people who applied never paid their liabilities. Although some applicants may have simply had unrealistic expectations of their ability to raise enough money to pay the amount due under amnesty, many others presumably applied for amnesty only as a means of delaying collection action on their liability, with no intention of paying.

- Collections under amnesty dragged out for a long time due to the provision that allowed the taxpayer 90 days from the issuance of a tax-due notice under amnesty to pay the reduced amount. This 90-day payment period also contributed to delaying collection action by WDOR.

- Limited term employes could perform some amnesty related tasks, but permanent employes with tax expertise were needed to do much of the work. This was partially dealt with by working many hours of overtime, but the devotion of permanent staff to amnesty was detrimental to permanent staff performing their ordinarily assigned functions.

- Some portion of what was collected would have been collected anyway. The 50 largest payments received under amnesty accounted for $9.8 million, or 37% of the total collected. These payments were mostly payments made on large corporation field audits in which the taxpayer received forgiveness of penalties and a portion of the interest.

Post Amnesty Enforcement Provisions

1985 Wisconsin Act 29 also contained a number of measures designed to follow amnesty with a tougher enforcement posture. These measures included:

- The authority to request that the Department of Administration withhold payment to vendors in certain instances if the vendors owe taxes to the state.

- The authority to refuse to issue or renew seller's permits for any type of tax compliance. Previously, this power was limited only to sales tax.

- An increase in the penalties for failure to file and the filing of false income tax returns and creation of a penalty for the act of assisting a person to file a false return.

- The administrative authority to levy against the property of taxpayers due to their failure to pay delinquent taxes.

- Expansion of the definition of personal liability for the payment of the taxes of a business to include other persons, such as employes or accountants, who are responsible for making tax payments to the state for the business.

- The rules regarding subcontractors were changed so that they were considered employes for withholding tax purposes.

- Creation of 10 additional revenue agent positions to provide increased enforcement staffing.

These provisions, in particular the administrative levy, have contributed significantly to the success of WDOR's post-amnesty collection program.

Other States' Experiences with Second Amnesty Programs

New York

New York has run three amnesty programs in 1986, 1994 and 1997. The second amnesty program specifically targeted non-resident non-filers and use tax. The first and third programs were very similar in nature to each other and to Wisconsin's first amnesty. The only articulated goal for these amnesty programs was the collection of revenue.

In 1997, most of the New York State business and individual taxes were eligible, as well as various city taxes. However, corporations with over 500 employes nationwide were not eligible. Amnesty was available to residents and non-residents, nonfilers and account receivables. Those who had received any prior amnesty benefit were ineligible. Unlike in 1986, the returns for the most recent tax year (1995 returns filed in 1996), were not eligible.

The revenue target for the 1996 program was virtually the same as that of the 1985 program, $400 million. However, New York revenue managers say that only an intensive $4 million advertising campaign allowed them to reach collections of $300 million in this amnesty.

Connecticut

Connecticut has run two amnesty programs, one in 1990 and one in 1995. Amnesty collections for 1990 were $50 million and for 1995 were $45 million. Connecticut first enacted an income tax in 1992, between the two amnesty programs. Their second amnesty program was targeted at nonfilers and underreporters of this new tax program. Connecticut's amnesty budget for the second program was $820,000. Although Connecticut's amnesty provisions were similar to Wisconsin's, the addition of a large new tax program between the two amnesties makes the situation less comparable.

New Jersey

New Jersey's collections went from $70 million in 1986 to $360 million in the 1996 program. They did this by forgiving ALL interest, imposing an additional 5% penalty on those that could have, but did not, take advantage of the amnesty and extensively advertising using an outside marketing firm. However, the cost of this success was $204 million in tax forgiven and a budget of $10 million in operating expenses, including $4 million for advertising.

In addition to the outside marketing firm, the New Jersey Department of Revenue utilized 90 to 100 staff persons to give speeches all over the state for a period of time before the amnesty program actually began.

General Comments on Other States

Some caution should be used in looking at the amnesty collection figures from New York and New Jersey because of the methodology they used in counting amnesty collections. New York included the net income tax due BEFORE withholding as amnesty collections on income tax returns. New Jersey's program ran during the income tax filing season and counted current year returns filed by amnesty applicants as part of amnesty collections.

All three states credited the heavy use of advertising as vital to the success of a second amnesty program. New York and New Jersey both felt that their second amnesty program faced an additional hurdle because their first program had been advertised as a one time opportunity. All three states noted that an amnesty program also meant lost opportunity since revenue-producing employes were diverted to work on the amnesty program.

Comparison of Present Wisconsin Conditions to 1985

Delinquent roll

At the end of fiscal year 1985, prior to Wisconsin's first amnesty program, the outstanding balance of delinquent state taxes stood at $205 million. At the end of fiscal 1997, that same balance stood at $878 million. While, at first, this increase appears alarming, one needs to consider a number of factors that have affected this growth:

- Delinquent tax collection (DTC) fee - In 1992, WDOR converted the funding of its delinquent tax collection program from general purpose revenue to a program revenue appropriation funded by a delinquent tax collection fee added to the accounts of delinquent taxpayers. As of the end of fiscal 1997, the delinquent tax collection fee itself made up 4.1% of the delinquent balance.

- Miscellaneous tax types - In 1985, the delinquent tax computer system only managed delinquencies for sales, withholding, income, corporation and gift taxes. In 1988, other miscellaneous taxes were added to the system (aviation fuel tax, inheritance tax, liquor tax, motor fuel tax, real estate transfer fee, special fuel tax, tobacco tax, utility tax). Since that time, a number of new taxes have been added (drug tax, temporary recycling surcharge, manufacturing penalty, exposition center tax, petroleum inspection fee, business tax registration fee, stadium tax). At the end of fiscal 1997, miscellaneous taxes made up 6.7% of the delinquent balance.

- Increased usage of estimated assessments - Since 1985, WDOR has moved to a more aggressive use of estimated assessments in the case of nonfilers for the major tax programs, both by issuing more estimates and by increasing the size of the estimates. Estimated assessments are issued for an amount greater than the expected tax liability, resulting in more dollars on the roll, but not necessarily more true outstanding liability. Estimated assessments made up 56% of the delinquent balance at the end of fiscal 1997 compared to 50% at the end of fiscal 1985.

- Increased availability of collection tools and information - Since 1985, WDOR's delinquent collection program has benefited from the expansion of the tools available in the collection toolbox. Added tools include the administrative levy, setoff of state payments to vendors against delinquent taxes, use of collection agencies on in-state accounts, and nonrenewal of occupational licenses issued by the Department of Regulation and Licensing. In particular, the administrative levy enacted as a follow-up to the last amnesty program has greatly increased WDOR's ability to involuntarily collect from taxpayers that fail to resolve their delinquent accounts voluntarily. Also, the availability of wage reporting information from the Department of Workforce Development enables the successful collection of

delinquent taxes from those taxpayers who are employed in Wisconsin. Because we are able to resolve accounts more effectively using these tools, the balance that remains on the role increasingly falls into categories that have low collection potential. At the end of fiscal 1997, 55.7% of the dollars on the delinquent roll were assigned to categories with decreased or no collection potential (defunct corporations, deceased taxpayers, unable-to-locate, bankruptcy, etc.) At the end of fiscal 1985, this same percentage was 43%.

- Local option taxes - In 1985, WDOR did not have the responsibility of collecting local option taxes. Since then, WDOR has assumed the responsibility of collecting county sales tax for 49 counties, a tax on rental cars, hotel rooms and food and beverage sales for a local exposition center district in Milwaukee County, and a tax on retail sales in a special professional baseball district in five counties of southeastern Wisconsin. Delinquent local option taxes made up .5% of the delinquent balance at the end of fiscal 1997.

Voluntary disclosure program

In 1995, WDOR implemented a voluntary disclosure program. In this procedure, an individual, corporation or a partnership, usually through a representative, comes forth on their own volition and requests an agreement to file required tax returns that have not been filed previously. This procedure can only be used in situations where the department has not had previous contact with the taxpayer.

Through this procedure, the individual, corporation or partnership may be granted a waiver of penalty and/or reduction in the number of periods for which returns are required to be filed. Interest remains at 18% but may be reduced by the Secretary of Revenue in certain circumstances. During the fiscal year ending June 30, 1997, 85 taxpayers took advantage of this program, paying in almost $1.5 million of back taxes. The voluntary disclosure program constitutes an ongoing amnesty of sorts for nonfilers and, therefore, may have reduced the universe of taxpayers eligible for a second amnesty program.

Additional audit resources

1997 Wisconsin Act 27 contains two provisions designed to enhance WDOR's audit program to generate additional GPR revenue. Twelve additional field audit positions are included with the expectation that they will bring in an additional $8.4 million in the biennium. Funding to purchase a computer system that will better identify good audit prospects is expected to bring in $4 million additional dollars in the biennium. Since any increased revenue from these programs is already included in projected revenue

for the biennium, running an amnesty during the same period may result in double counting of revenue and sending a mixed message to taxpayers.

B. PROBLEM OR OPPORTUNITY DEFINITION

1997 Wisconsin Act 27 includes a second Wisconsin amnesty program that is materially similar to Wisconsin's 1985 tax amnesty program as a means of raising additional revenue to assist in balancing the 1997-99 biennial budget. The Legislative Fiscal Bureau has estimated that another amnesty program could bring in $40 million dollars. Statutory language requires WDOR to present a detailed amnesty proposal to the Joint Committee on Finance in December 1997.

C. OBJECTIVE

The following objectives of the proposed second amnesty program have been established by the Legislature (objective #1) and by WDOR (objectives 2-5).

1. Collect $40 million dollars in GPR revenue.
2. Reduce the number of delinquent taxpayers, allowing WDOR to focus its collection efforts on the remaining delinquents.
3. Allow taxpayers the opportunity to resolve their tax debts before more severe tax administration laws go into affect.
4. Be constructed in such a way that makes WDOR's administrative task easier than the 1985 amnesty.
5. Maintain the faith of law-abiding taxpayers in the equity of the tax system.

D. 1998 PROPOSED PROVISIONS

The following table outlines the provisions of the 1985 amnesty program and the changes that WDOR proposes for a 1998 program.

	1985 Provisions	1998 Proposed Provisions (changes underlined)
1. Application Requirement	Taxpayer must file an application on form designated by department.	Taxpayer must file an application on form designated by department. <u>Application must be accompanied by payment of $200 or the actual amount due, whichever is less, in guaranteed funds. This payment will be credited toward the taxpayer's outstanding liabilities, and will be retained, whether or not the taxpayer receives forgiveness in amnesty.</u>

2. Application Period	September 15, 1985 through November 22, 1985	June 15, 1998 through August 14, 1998
3. Eligible Taxpayers	All taxpayers eligible except: - Persons notified by date of the application that they were a party to a criminal investigation or litigation relating to any tax administered by WDOR. - Person notified during amnesty period of an adverse determination of appeal to TAC or other court.	All taxpayers eligible except: - Persons notified by date of the application that they were a party to a criminal investigation or litigation relating to any tax administered by WDOR. - Person notified during amnesty period of an adverse determination of appeal to TAC or other court. - Persons who have filed for relief under any chapter of the U.S. bankruptcy code.
4. Eligible Obligations	All taxes administered by WDOR under chapters 71, 72, 78, and 139 and subchapter III of chapter 77. Three categories: 1 - Existing tax delinquencies on the records of WDOR as of May 15, 1985. 2 - Liabilities that have been neither reported nor established. 3 - Liabilities not delinquent on the records of WDOR as of May 15, 1985, but based on a notice of assessment, determination or notice of amount due issued before or during the amnesty period. Obligations not eligible: - Those subject to civil collection actions by WDOR, initiated before the application was received, under 71.35, 71.135, or any other state law pertaining to creditor enforcement proceedings. -Nonresident accounts assigned to a collection agency and the subject of a civil collection proceeding before any court. -Those being appealed to the department, TAC, or any court, unless that appeal is withdrawn by the taxpayer. - Estimated or default assessments, unless all tax returns covered by the assessments are filed.	All taxes administered by WDOR under chapters 71, 72, 78, and 139 and subchapter III of chapter 77. Three categories: 1 - Existing tax delinquencies on the records of WDOR as of October 1, 1997. 2 - Liabilities that have been neither reported nor established. 3 - Liabilities not delinquent on the records of WDOR as of October 1, 1997, but based on a notice of assessment, determination or notice of amount due issued before or during the amnesty period. Obligations not eligible: - Those subject to civil collection actions by WDOR, initiated before the application was received, under 71.91, or any other state law pertaining to creditor enforcement proceedings. -Nonresident accounts assigned to a collection agency and the subject of a civil collection proceeding before any court. -Those being appealed to the department, TAC, or any court, unless that appeal is withdrawn by the taxpayer. - Estimated or default assessments, unless all tax returns covered by the assessments are filed. - Field audits issued under 71.74(2) or 77.59(2). - Local option taxes.

5. Forgiveness	By the categories above: 1 - 20% of the delinquent balance as of the date of payment is forgiven, not to exceed $5,000. 2 - Penalties, fees, and right of department to seek prosecution waived, interest reduced from 1-1/2% per month to 1% per month. 3 - Penalties and fees waived, interest reduced from 1-1/2% per month to 1% per month.	By the categories above: 1 - 20% of the delinquent balance as of the beginning of the amnesty application period is forgiven, not to exceed $10,000. No forgiveness of DTC fee or reduction of fee based on reduced amount due under amnesty. 2 - Penalties, fees, and right of department to seek prosecution waived, interest reduced from 1-1/2% per month to 1% per month. 3 - Penalties and fees waived, interest reduced from 1-1/2% per month to 1% per month.
6. Payment Requirement	Full payment of amount due under amnesty program must be made by guaranteed funds within 90 days after notification by WDOR and all returns are filed.	Full payment of amount due under amnesty program must be made by guaranteed funds within 45 days after notification by WDOR and all returns are filed.
7. Destination of Proceeds	Segregated fund under section 25.38 (property tax deferral program).	Deposit 5% of collections into a technology fund for WDOR to fund an integrated tax system. Deposit the remainder into GPR.

E. ANALYSIS OF 1998 PROPOSED PROVISIONS

The following is a discussion of the changes proposed for a 1998 program from the 1985 program.

1) Application Requirement - During the 1985 program, it appeared that many people applied for amnesty with little intention of paying their liabilities in order to postpone collection action be WDOR. Only 46.9% of the persons who applied for amnesty in 1985 paid what was due under amnesty and received forgiveness. New York addressed this problem in their second amnesty program by requiring 50% down with the application; New Jersey required 100% down. While WDOR wants to require some downpayment to eliminate frivolous filers, we feel that the down payment should be a consistent amount to avoid the need for the taxpayer to make a complex computation. A non-refundable payment of $200 or the actual amount due, whichever is less, should be required with the application for amnesty in order to maximize collections under amnesty. (This will mean that some collections will be received even from taxpayers who apply for amnesty but don't following through on their obligation.) In 1985, only 1,753 owed less than $200 under amnesty.

2) Application Period - In order to allow WDOR sufficient lead time and to avoid the peak of the income processing season, the amnesty period would be scheduled from June 15, 1998 through August 14, 1998.

3) Eligible Taxpayers - The provisions for this amnesty program should also clearly state that persons who have filed for relief under any chapter of the U.S. bankruptcy code should be ineligible for amnesty. This exclusion was not clearly stated in the 1985 legislation and caused confusion during that amnesty program. Persons filing for bankruptcy are already benefitting from a type of forgiveness of debt and should not be eligible for additional forgiveness.

4) Eligible Obligations - The qualifying date for the 20% reduction of delinquent liabilities should be October 1, 1997. This prevents people from avoiding tax payment between now and the amnesty period in anticipation of amnesty.

   The reference to sections 71.35 and 71.135 of the Wisconsin Statutes has been changed to Section 71.91 due to the revision of chapter 71 that occurred in 1988.

   Field audits issued under section 71.74(2) or 77.59(2) of the Wisconsin Statutes should be excluded from the amnesty program. These audits are conducted by detailed examination of the taxpayer's books and records. Large corporations and taxpayers whose recordkeeping is less than acceptable are often reaudited. During the 1985 amnesty, the 50 largest accounts receiving forgiveness accounted for $9.8 million of the total collected; most of these accounts were field audits. These assessments should be excluded because:

   - It is doubtful that collections on these audits results in <u>additional</u> revenue to the state. If it were not for amnesty, these taxpayers may have appealed a negligence penalty, but probably would have ended up paying the tax and interest anyway. (Only 13% of field audit assessments issued end up being entered into the delinquent roll.)
   - Negligence penalties are assessed, primarily in sales and use tax field audits, where the taxpayer is aware of the taxability of the items and consistently fails to pay the required use tax due or keeps records so poorly that liability is difficult to establish. Often, negligence penalties are imposed in cases where the taxpayer has been previously audited and still does not properly report the tax liability. In order to maintain the public's faith in the tax system, these penalties should not be forgiven.
   - The Joint Committee on Finance's version of the 1997-99 biennial budget includes a provision to add 12 field audit positions to WDOR's workforce, with the expectation of $8.6 million in additional revenue during this biennium. Including field audits in an amnesty program at the same time WDOR is

implementing a stepped up audit program is contradictory and may result in double-counting of the same revenue.

Local option taxes collected by WDOR should not be included in the amnesty program. It is questionable whether the legislature has the authority to grant amnesty on a tax that it does not impose. Also, the revenue from these taxes goes to the local government rather than to the state's general purpose revenue.

5) Forgiveness - The 20% forgiveness of delinquent amounts should be computed on the balance of the delinquency as of the first day of the amnesty application period. In 1985, the statute specified that the discount was on the balance due as of the date of payment. The lack of a date certain for computation of the discount caused administrative difficulties.

   The ceiling on the dollar amount of forgiveness on delinquent accounts should be raised from $5,000 to $10,000. The size of the average delinquent account has almost tripled since 1985 (from $2,847 to $7,954). If the ceiling were left at the same level as 1985, it would be less of an incentive for large delinquent accounts to take advantage of amnesty.

   The 20% forgiveness of delinquent accounts should not be applied against the delinquent collection (DTC) fee nor should it cause a reduction in the amount of the DTC fee. WDOR's delinquent tax collection program depends on revenue from this fee to operate; these collections should not be jeopardized by an amnesty program. Also, the amnesty program will be staffed largely by revenue agents taken away from their delinquent collection duties, so ordinary fee revenue may suffer.

6) Payment Requirement - Full payment of the amount due under amnesty should be required within 45 days after the taxpayer has been notified by WDOR of his or her responsibility and all returns have been filed, rather than the 90 days allowed in 1985. The report on the 1985 amnesty program indicated that this provision was a major factor in lengthening the amount of time needed for WDOR to complete work on the amnesty program and also encouraged those who applied for amnesty as a delaying tactic. A 45-day payment program allows sufficient time for a taxpayer to get a bank loan, if necessary, and does not unnecessarily prolong the payment.

7) Destination of Proceeds - A portion of the dollars collected under amnesty should be deposited in an information technology fund to aid in future tax collection programs. These deposits will provide WDOR an incentive to maximize collections under amnesty.

1997 Wisconsin Act 27 gives WDOR $1.6 million to begin the development of WDOR's planned integrated tax system which is expected to improve and streamline many facets of WDOR's processes. Five percent of amnesty collections should be deposited into an account that can be used to fund the later stages of this development project and related hardware and software needs.

Post amnesty tools

The practice of coupling an amnesty program with increased enforcement after the amnesty period is common in states that have had amnesty programs. The threat of harsher enforcement provides an additional motivation for taxpayers to come forward during the amnesty. Indeed, New York reported that their 1994 amnesty program, which targeted use tax and nonresident taxpayers, was not particularly successful, mainly because there was no "stick" to follow the "carrot" of amnesty.

In addition to the above amnesty provisions, legislative provisions designed to increase WDOR's ability to enforce the tax law should be enacted so that they take effect after the close of the amnesty period.

The following is a list of suggested provisions:

- Impose an additional delinquent collection fee on delinquents who fail to resolve their accounts under amnesty. For liabilities that are recorded as delinquent as of October 1, 1997 and which meet the qualifications to apply for amnesty, a fee equal to 5% of the balance due will be added to the delinquent account after amnesty is completed, if the taxpayer failed to resolve their account under amnesty. Collections of this fee should be deposited into the delinquent tax collection appropriation, since that appropriation is anticipated to have a $1.2 million deficit by the end of fiscal 1999. It is estimated that this proposal will cause about $24 million dollars of fees to be imposed on delinquent accounts. Since a large portion of the accounts that this fee will be imposed on will be accounts with limited collection potential, it is estimated that $5,760,000 of these fees will be collected in fiscal years 1999, 2000 and 2001, with residual collections in later years.

- Expand occupational licensing provisions. WDOR currently has the authority to hold up the renewal of occupational licenses issued by the Department of Regulation and Licensing if the credential holder owes delinquent taxes. A provision to expand this authority to occupational licenses issued by other state agencies and to initial licensure as well as renewals was included in the Governor's budget bill, but removed by the Joint Committee on Finance as a non-budget item. It is estimated that this provision could result in additional collections of $775,000 annually.

- Allow attachment of public employe trust fund benefits. Currently, Section 40.08(1) of the Wisconsin Statutes provides that public employe trust fund benefit payments are not subject to execution, levy, garnishment, or other attachment to satisfy state tax debts. This results in the inequitable situation that individuals can draw state pension benefits at the same time that they are avoiding the payment of state tax debts. It also puts WDOR at a competitive disadvantage to the Internal Revenue Service, which is not prevented from attaching these benefits. It is proposed that the prohibition of execution, levy, garnishment or other attachments in Section 40.08(1) be eliminated in reference to the WDOR. It is estimated that this provision could result in additional collections of $100,000 annually.

- Expand statutory authority to write off delinquent tax obligations. Currently, WDOR has authority to write off delinquent tax obligations in specific situations as listed in section 73.03(27) of the Wisconsin Statutes. However, the delinquent tax balance includes debts that WDOR has determined to be uncollectible, but which do not fit the categories listed in section 73.03(27). For example, delinquent accounts of deceased persons can be written off only three years after death or closing of the estate under current statute, even though there is little chance of collecting them once the estate is closed or if the taxpayer died leaving no estate. Therefore, the delinquent balance is inaccurately inflated by these debts. It is proposed that WDOR be given authority to write off debts that it has determined to be uncollectible, similar to other states such as Minnesota. It is estimated that this provision could reduce the delinquent tax roll by $150 million to $200 million.

- Authorize reciprocal refund offset agreement with IRS. Currently, some states voluntarily offset state tax refunds against federal tax debts, but the IRS is not authorized to offset federal tax refunds against state tax debts. Legislation has been proposed in Congress several times to authorize a federal offset to state debts, but has not yet passed. It is proposed that language be included in section 73.03 of the Wisconsin Statutes that authorizes WDOR to enter into a reciprocal refund offset agreement with the IRS, should they ever be authorized to do so. It is estimated that this proposal could result in additional collections of $1 million annually, assuming that Congress enacts legislation authorizing reciprocal refund offsetting.

- Reduce the threshold for the vendor setoff program. WDOR can intercept payments to vendors that have contracts with the state if the vendor owes delinquent taxes. Currently, this authority is limited to contracts of at least $3,000. It is proposed that this limitation be reduced to $500. It is estimated that this proposal could result in additional collections of $50,000

- Allow WDOR to require that installment agreement payments be made by electronic funds transfer. Many taxpayers that owe delinquent liabilities request to pay them off through installment agreements under section 71.92(2) of the Wisconsin Statutes. Although installment agreements are a valuable tool in resolving delinquent accounts, a substantial number of taxpayers default on them or make payments late. Taxpayer compliance with installment agreements will improve and revenue from installment agreements will increase if WDOR can require taxpayers to make installment agreement payments through electronic funds transfer, similar to the automatic withdrawal of mortgage payments or other regularly-recurring liabilities. It is estimated that this proposal could result in additional collections of $2 million annually.

- Increase the late filing fees. Currently the late filing fees imposed are $30 for income or corporation tax returns (appealable), $10 for sales tax returns (nonappealable) and -0- for withholding tax deposits. These amounts should be increased to a consistent $30 level to provide for a deterrent for late filing of required returns and reports. All late filing fees should be appealable. Increasing the sales tax late filing fee from $10 to $30 would result in additional collections of $1 million annually. Instituting a $30 late filing fee for withholding tax would result in additional collections of $1.5 million annually.

- Allow WDOR to have on-line access to files at the Department of Transportation, the Department of Workforce Development, and the Department of Corrections. Currently, WDOR has information exchange agreements with these three agencies, but does not always have the authority to access information on-line or to access all information. For example, WDOR can access DOT's drivers' license file by social security number or name, but when access is by name, the driver's social security number is not displayed. Information from other agencies' files can be used to locate nonfilers or underreporters, to locate delinquent taxpayers or their assets to aid delinquent collection, to identify fraudulent tax returns, and to provide information for prosecutions. For example, If the Department of Corrections provided WDOR with information on the names and social security numbers of prison inmates, WDOR could identify fraudulent returns claiming refunds and prevent the issuance of refunds.

The fiscal results of these proposals assuming that they go into effect on January 1, 1999, is summarized in the table below:

Provision	FY 1999	FY 2000	FY 2001
DTC Fee Revenue			
Additional Collection Fee	3,600,000	1,440,000	720,000
Total DTC Fee Revenue	3,600,000	1,440,000	720,000
GPR Revenue			
Occupational Licensing Expansion	387,500	775,000	775,000
Public Employe Trust Funds	50,000	100,000	100,000
Reciprocal Refund Offset*	500,000	1,000,000	1,000,000
Vendor Setoff	25,000	50,000	50,000
EFT for Installment Agreements	1,000,000	2,000,000	2,000,000
Increased Late Filing Fee (withholding tax)	750,000	1,500,000	1,500,000
Increased Late Filing Fee (sales)	500,000	1,000,000	1,000,000
Total GPR Revenue	3,212,500	6,425,000	6,425,000

* Dependent on passage of federal legislation.

F. RECOMMENDATION

If an amnesty program is necessary, it should be patterned after the 1985 program with the modifications noted above. It should be followed by the enactment of the increased enforcement provisions described above.

G. IMPLEMENTATION

WDOR estimates that it will require five months from the time amnesty legislation is passed to the time when the amnesty application period can begin. During this time, WDOR has to manage multiple project paths for taxpayer notification, process development, computer system development, training, publicity, and creation of the Amnesty Unit. Attachment 1 is a high level timeline for the implementation process.

Because of the need for a five month lead time, it is necessary that the legislation authorizing the amnesty program be signed into law by February 1, 1998 for WDOR to be able to implement in time for a July 6, 1998 start date.

H. COST/BENEFIT ANALYSIS

Revenue estimate

The Legislative Fiscal Bureau has estimated that an amnesty program similar to the 1985 program will raise $40 million.

It should be noted that estimating revenue from an amnesty program is a very inexact science at best and that other states that have run second amnesty programs have not experienced large increases in the amount of revenue over their first amnesty program, unless they have substantially increased the level of forgiveness they offer. Increasing the level of forgiveness comes at a twofold cost:

- It also increases the dollars that WON'T be collected by forgiving larger dollar amounts. This may have an impact on future revenues.

- It increases the cynicism of honest taxpayers who see those who fail to meet their tax responsibilities being rewarded by a second amnesty after being told that the first amnesty program was a one-time event.

Summary of budget request

WDOR estimates that running an amnesty program will cost $1,958,370 as follows:

	FY 1998	FY 1999
Permanent Salaries		348,000
LTE Salaries	10,000	60,400
Fringe Benefits		140,200
Printing	17,900	1,650
Postage	62,600	18,720
Equipment	83,200	3,600
Space Rent	2,525	48,875
Installation	4,800	
Telephone Service		19,300
Office Supplies		1,600
Contractual Services	151,500	85,000
Data Processing Service	90,000	30,000

Infotech Charges	24,200	7,900
Travel	1,500	1,500
Advertising	371,700	371,700
Total	819,925	1,138,445

Attachment 2 details the costs of an amnesty program.

Attachment 1

AMNESTY IMPLEMENTATION PLAN

	Taxpayer Notification	Process Development	Computer System Development	Training	Publicity	Creation of Amnesty Unit
November 1997		Develop high level flow chart of processes for application, notice, payment, nonfiler letters, and denial letters.				
December 1997	Identify source & develop specifications for mailings to delinquent accounts, nonfilers, cases under appeal, practitioners.	Share high level flow chart with contacts from each billing system contacts & develop detailed flow chart.	Identify existing computer processes that can meet needs or develop specifications for new processes.		Negotiate with vendor from state bulletin.	Develop specifications for computers and order. Develop details of other equipment needs.
January 1998		Develop text of letters. Provide input to programmers.	Do detailed design work for new or modifications of existing processes.	Develop plan for training employes.	Vendor develops advertising plan.	Identify and rent space. Identify permanent staff that will be assigned.
February 1998	Draft contents for above mailings		Begin necessary programming.	Begin to write training material. Schedule training sessions.	Department approves advertising plan.	Order other equipment.
March 1998		Write procedures.	Continue necessary programming.	Continue writing training material.		
April 1998	Do programming necessary for mailings		Continue necessary programming.	Complete training materials.	Vendor begins production of brochure, radio/TV spots.	
May 1998			Conclude necessary programming.		Vendor completes brochure, radio/TV spots.	Recruit and hire LTE's.
June 1998	Mailing to practitioners early in month. Mailing to delinquent accounts, nonfilers & cases under appeal at end of month.		Test computer processes.	Provide employe training.	Radio/TV spots begin. Speaking engagements. Press kit, press conference. Post information & forms on Web page. Article in WTB.	Bring LTE's on board to train. Install wiring and equipment. Open 800 number when publicity campaign begins.
July 1998		Implement procedure.	Implement computer processes.		Additional spots throughout application period.	Begin receiving amnesty applications.

Attachment 2

AMNESTY BUDGET REQUEST

1) Mailings to potential applicants

WDOR plans informational mailings to several groups of potential amnesty applicants:

Delinquent tax accounts	110,000
Apparent nonfilers for income tax	80,000
Taxpayers with pending appeals	2,200
Total	192,200

These mailings will consist of a personalized notification that can be completed and returned as an amnesty application, a brochure explaining the amnesty program and a return envelope to the amnesty post office box.

	FY 1998	FY 1999
Printing (192,200 mailing envelopes and 192,200 return envelopes at $.015 per piece)	5,800	
Infotech Charges (192,200 laser printed customized notifications at $.04 per piece)	7,700	
Printing (192,200 brochures at $.027 per piece)	5,200	
Postage (192,200 at $.261 per piece first class)	50,200	

2) Practitioner kits

WDOR plans to mail informational kits to 10,000 tax practitioners who need material to assist clients in applying for amnesty. These mailings will consist of a supply of 10 amnesty brochures and 10 amnesty applications, and a letter answering commonly asked questions regarding the preparation of amnesty applications and returns and how to order additional applications, brochures and prior year tax returns.

	FY 1998	FY 1999
Printing (100,000 applications at $.01 per piece)	1,000	
Printing (100,000 brochures at $.027 per piece)	2,700	
Printing (10,000 envelopes at $.015 per piece)	150	
Printing (10,000 letters at $.01 per piece)	100	
Postage (10,000 at $1.24 per piece)	12,400	

3) Amnesty notices

Based on the growth of the taxpayer universe since the 1985 amnesty, WDOR estimates that there will be 30,000 applicants for amnesty in 1998. Each applicant for amnesty will receive a mailing of a notice indicating his or her balance due, including a tear-off payment voucher, and a return envelope. Each of the applicants will also require an acknowledgement letter, since we will be unable to respond to their application immediately. (In 1985, 44% of the applications were received on the last day of the amnesty period.) One-third of the applicants will require an additional letter requesting that they file missing tax returns, along with a return envelope.

	FY 1998	FY 1999
Infotech Charges (30,000 amnesty notices at $.04 per piece)		1,200
Infotech Charges (30,000 acknowledgements at $.04 per piece)		1,200
Printing (40,000 return envelopes at $.015 per piece)		600
Printing (70,000 mailout envelopes at $.015 per piece)		1,050
Postage (70,000 pieces at $.261 per piece)		18,270

4) Additional forms

In addition to the applications and brochures including in the above mailings, a supply of these forms will be needed to distribute to the general public in WDOR's 34 offices around the state. (NOTE: Taxpayers will also be able to download and print these forms through WDOR's Web page and Fax-a-form service at no additional cost to WDOR.)

	FY 1998	FY 1999
Printing (100,000 brochures at $.027 per piece)	2,700	
Printing (25,000 applications at $.01 per piece)	250	

5) Advertising

In 1985, WDOR had a $50,000 amnesty advertising budget which covered the cost of a limited term public information coordinator and the hiring of an advertising agency, but did not include any funds for paid advertising in any media. Advertising consisted of utilizing public service announcements and development of a press kit to be distributed to the news media. However, New York and New Jersey credit a heavy advertising campaign for the success of their second amnesty programs. Each of these states had an advertising budget of $4 million.

WDOR has developed the following advertising budget estimate based on the advertising plan for the Connecticut amnesty program and input from the acting director of the Wisconsin Lottery and the Lottery's advertising agency.

	FY 1998	FY 1999
Contractual Services (development of 1 PSA announcement at $20,000 each)	20,000	
Contractual Services (development of 3 30-second TV spots at $30,000 each	90,000	
Advertising (media cost for 2 4-week statewide TV campaigns)	196,200	196,200
Contractual Services (development of 3 newspaper ads at $1,500 each)	4,500	
Advertising (media cost for 2 statewide 1/4-page campaign)	54,000	54,000
Contractual Services (development of 3 60-second radio spots)	7,500	
Advertising (media costs of 2 4-week radio campaigns)	121,500	121,500
Contractual Services (development of press kit)	2,500	
Contractual Services (produce and distribute press kit)	1,000	

6) Interactive Voice Response (IVR) application

WDOR plans to develop an IVR application to handle incoming inquiry calls from taxpayers with questions about amnesty. This application can provide prerecorded basic information about the amnesty program, route calls for forms to the forms request line or the Fax-a-form service, or route calls to employes for more detailed information. WDOR's existing IVR unit in Madison will be used to provide these services. WDOR will contract with the IVR vendor to develop the programming for this application.

	FY 1998	FY 1999
Contractual Services	6,000	

7) Staffing for Amnesty Unit

In 1985, WDOR staffed the amnesty program with 16 limited term employes and supplemented this with some permanent staff assigned to amnesty full time and other permanent staff who worked overtime hours on the program. Altogether, 64,000 hours were spent on amnesty work, 14,500 of which were overtime hours. The 1985 amnesty report comments that amnesty work required a good familiarity with WDOR operations

and tax law and that the operation would have run more efficiently had more permanent staff been used.

In 1998, WDOR plans to create a separate Amnesty Unit to handle amnesty taxpayer assistance calls, the processing of amnesty applications, and the issuance of amnesty notices. This unit will be staffed with 12 LTE's at the Revenue Agent 2 classification. Every attempt will be made to hire former revenue employes for these positions to maximize their effectiveness. In addition, the unit will again be staffed by permanent revenue employes working overtime hours, with the expectations that 14,500 overtime hours will be worked.

WDOR is considering contracting out the provision of telephone assistance and has been in contact with the Department of Workforce Development about the use of their Madison call center for this purpose. WDOR plans to offer evening assistance hours for two weeks at the beginning of the amnesty application period and two weeks at the end.

	FY 1998	FY 1999
Permanent Salaries (14,500 hours overtime at time and one half of average WDOR salary of $16 per hour)		348,000
LTE Salaries (8 Revenue Agent 2's at $10 per hour for 12 weeks and 4 Revenue Agent 2's at $10 per hour for 20 weeks)	10,000	60,400
Fringe Benefits (23.6% of Permanent Salaries)		136,000
Fringe Benefits (7.65% of LTE Salaries)		4,200
Contractual Services (7,000 hours at $15 per hour)	20,000	85,000

8) Supplies and Services for Amnesty Unit

A separate physical space will be created in which the Amnesty Unit will be housed, with space for 16 work stations. Since there is no existing free space in WDOR's building at 4638 University Avenue, it is assumed that space will have to be rented and equipped elsewhere for a period of twelve months. The following costs are estimated to create this work space:

	FY 1998	FY 1999
Space Rent (space for 16 workstations at $3,000 each station for 12 months)		48,000
Equipment (16 LAN-ready PC's at $4,700 each)	75,200	
Equipment (1 LAN printer)	4,000	

Equipment (12 month rental of photocopier)		3,600
Equipment (1 fax machine)	1,200	
Equipment (16 telephone instruments with headphones)	2,800	
Installation (Wiring for 16 phone and data outlets at $100 per piece)	1,600	
Installation (17 devices at $200 per device)	3,200	
Telephone Service (16 lines at $50 each for 12 months)		1,600
Telephone Service (800 number service: 25,000 in-state calls of 5 minutes at $.12 per minute and 3,600 out-of-state calls of 5 minutes at $.15 per minute)		17,700
Office Supplies (16 people at $100 each for 12 months)		1,600

9) Payment processing

Incoming amnesty applications will be directed to a special post office box to insure prompt handling. Amnesty payments will be directed to the depository bank, who will process the payments received through WDOR's existing Combined Remittance Processing system and route correspondence to WDOR to handle. The cost of the bank handling will be covered by the Depository Selection Board and is not included.

	FY 1998	FY 1999
Postage		450

10) Contract Programming

Contract programming will be needed to develop computer processes to support the amnesty program. The newly developed Delinquent Tax System (DTS) provides a basis on which these processes can be built. WDOR estimates that we will need 1,200 hours of contract programming to develop the necessary processes, which include:

Overall analysis, design and project management	400 hrs.
Define and create database	100 hrs.
Write selection and application mailing programs	300 hrs.
Write acknowledgement letter program	100 hrs.
Develop a DTS amnesty worksheet processor	600 hrs.
Write a taxpayer composite function	400 hrs.
Develop CRP processes	100 hrs.
Write a payment reconciliation process	200 hrs.
Write summary and statistical reports	200 hrs.
Total	2,400 hrs.

	FY 1998	FY 1999
Data Processing Services (2,400 hours of contract programming at $50 per hour)	90,000	30,000
Space Rent (1.16 staff years at $3,000 per year)	2,525	875
Infotech Charges	16,500	5,500

11) **Travel**

Speaking engagements for department personnel to promote amnesty to groups across the state will be important to ensuring amnesty's success.

	FY 1998	FY 1999
Travel - In-State (15 trips at $100 per trip)	1,500	1,500

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Authorize a Tax Amnesty Program

DESCRIPTION OF CURRENT LAW AND PROBLEM:

1997 Wisconsin Act 27 requires the Wisconsin Department of Revenue to submit a proposal to the Joint Committee on Finance to implement a tax amnesty program that is materially similar to the tax amnesty program conducted in 1985.

RECOMMENDATION:

The Department of Revenue has reviewed the 1985 amnesty program and the statutory language that authorized it (see copy of statutory language attached). The department recommends the following changes in the 1985 language to make it applicable to the current situation and to rectify problems noted in the first amnesty program.

1) Require that a non-refundable payment of $200 or the actual amount due, whichever is less, be made with the application for amnesty in order to maximize collections under amnesty. This will reduce the number of people applying for amnesty merely to postpone collection action and will guarantee that we collect something from all amnesty applicants, even though they may not follow through on their entire obligation.

2) Allow amnesty applications to be filed from June 15, 1998 through August 14, 1998. This will allow WDOR sufficient lead time to prepare for the program and will avoid the peak of the income processing season.

3) Prevent persons who are under the protection of the U.S. bankruptcy court at the time of the program from being eligible for this amnesty program. Persons filing for bankruptcy are already benefitting from a type of forgiveness of debt and should not be eligible for additional forgiveness.

4) Allow the 20% reduction of delinquent liabilities for liabilities that were delinquent as of October 1, 1997. This prevents people from avoiding tax payment between now and the amnesty period in anticipation of amnesty.

5) Correct references to Chapter 71. This chapter was rewritten in 1988.

6) Eliminate field audits issued under section 71.74(2) or 77.59(2) of the Wisconsin Statutes from eligibility under this amnesty program. The majority of these

amounts would be collected anyway. The legislature has given the department 12 additional auditor positions in order to increase audit collections, so including field audits in the amnesty program would have the effect of counting this revenue twice.

7) Eliminate local option taxes collected by WDOR from eligibility under this amnesty program. The revenue from these taxes goes to the local government rather than to the state's general purpose revenue.

8) Compute the 20% forgiveness on delinquent amounts on the balance of the delinquency as of the first day of the amnesty application period. In 1985, the statute specified that the discount was on the balance due as of the date of payment. The lack of a date certain for computation of the discount caused administrative difficulties.

9) Raise the ceiling on the dollar amount of forgiveness on delinquent accounts from $5,000 to $10,000. The size of the average delinquent account has almost tripled since 1985 (from $2,847 to $7,954). If the ceiling were left at the same level as 1985, it would be less of an incentive for large delinquent accounts to take advantage of amnesty.

10) Provide that the 20% forgiveness of delinquent accounts is not applied against the delinquent tax collection (DTC) fee and does not cause a reduction in the amount of the DTC fee. WDOR's delinquent tax collection program depends on revenue from this fee to operate; these collections should not be jeopardized by an amnesty program. Also, the amnesty program will be staffed largely by revenue agents taken away from their delinquent collection duties, so ordinary fee revenue may suffer.

11) Require full payment of the amount due under amnesty within 45 days after the taxpayer has been notified by WDOR of his or her responsibility and all returns have been filed. In 1985, payment was required within 90 days, which lengthened the amount of time needed for WDOR to complete work on the amnesty program and also encouraged those who applied for amnesty as a delaying tactic.

12) Deposit 5% of amnesty collections to a information technology fund for the department and the remainder to the state's general fund. The deposit to the information technology fund will provide WDOR an incentive to maximize collections under amnesty and will aid the department in collecting taxes effectively in the future.

FISCAL/ADMINISTRATIVE IMPACT:

The Legislative Fiscal Bureau estimates that an amnesty program will collect $40

million dollars. The department estimates that the amnesty program will require a budget of $2.1 million to conduct.

DRAFTING INSTRUCTIONS:

The 1985 statutory language should be used as a model for this legislation, with the modifications noted above.

EFFECTIVE DATE:

Date after publication, with the amnesty application period as noted above.

PERSON TO CONTACT:

Vicki R. Siekert (608) 266-9635

Prepared by: Vicki R. Siekert

AMNESTY LEGISLATION

1985 Assembly Bill 85

1985 STATE TAX AMNESTY. (a) *Program established.* The department of revenue shall establish a tax amnesty program that shall apply to all taxes administered by the department under chapters 71, 72, 78 and 139 of the statutes and subchapter III of chapter 77 of the statutes. Amnesty is available only with respect to the tax obligations under paragraph (b). The amnesty program shall be in effect from September 15, 1985 to November 22, 1985.

(b) *Eligible obligations; payment; limit.* 1. For a taxpayer who has an existing tax delinquency on the records of the department as of May 15, 1985, the department shall accept as full payment of the delinquent amount a certified check, cashier's check, money order or cash in the amount of 80% of the balance due as of the date of payment. No amnesty is available on a tax delinquency based upon an estimated or default assessment, determination, or notice of amount due unless all tax returns corresponding with the assessment, determination, or notice of amount due are filed with the department during the amnesty period. The maximum reduction available under this subdivision is $5,000.

2. For a taxpayer who has a tax liability that is neither reported nor established, the department shall accept the filing of returns, together with payment of all taxes due, with interest, on those returns if payment is made by certified check, cashier's check, money order or cash. On those returns the department shall not impose civil penalties and late filing fees or seek criminal prosecution and the department shall reduce applicable delinquent interest due to the rate of one percent per month or part of a month. If the department determines that additional taxes are due on those returns, penalties and appropriate interest may be imposed on those additional amounts.

3. For a taxpayer who has a tax liability not delinquent on the records of the department as of May 15, 1985, but based upon an assessment, determination, or notice of amount due issued by the department before or during the amnesty period, the department shall waive civil penalties, except as provided in par. (d), and late filing fees and reduce applicable delinquent interest due to the rate of one percent per month or part of a month if an application for amnesty is submitted during the amnesty period and payment is made by certified check, cashier's check, money order or cash. Amnesty is not available under this subdivision for an assessment, determination, or notice of amount due under review by the appellate bureau of the department, the Wisconsin tax appeals commission or any court unless that appeal is withdrawn by the taxpayer.

(c) *Ineligible taxpayers and obligations.* The amnesty program is not available if any of the following conditions apply:

1. The person requesting amnesty has been notified by the date of application for amnesty that he or she is a party to any criminal investigation or any pending criminal litigation relating to any tax administered by the department.

2. The amounts for which amnesty is requested are collected or subject to litigation as of the date of application for amnesty as a result of any civil collection action initiated by the department under authority of section 71.13 or 71.135 of the statutes or any other state law pertaining to creditor enforcement proceedings.

3. The amount for which amnesty is requested is, on the date of application for amnesty, a delinquent nonresident account assigned to a collection agency under section 73.03 (28) of the statutes and is the subject of a civil collection proceeding before any court.

4. The taxpayer is notified during the amnesty period of an adverse determination of his or her appeal of a tax liability by the Wisconsin tax appeals commission or any court during the amnesty period.

(d) *Nonwaiver.* Any penalty assessed under section 71.11 (6), 71.20 (5) (a), (8) (e), (16) or (22) (e), 72.86 (6), 77.60 (5), 78.22 (6), 139.25 (2) or (5) or 139.44 (2) of the statutes or assessed for the underpayment of taxes under section 71.21 or 71.22 of the statutes may not be waived under paragraph (b) 2 or 3.

(e) *Finality; full payment.* All amounts paid under amnesty are final and may not be refunded. Amnesty is available for a taxpayer only if the full amount due as provided by the amnesty program is paid for all of his or her tax obligations as set forth in paragraph (b) within 90 days after notification by the department and all required tax returns are filed.

(f) *Application.* For amnesty to apply, a properly completed application for amnesty under this section shall be made upon forms and under instructions issued by the department.

(g) *Proceeds.* The proceeds of the program under this subsection shall be deposited in the segregated fund under section 25.38 of the statutes.

(h) *Administrative costs.* Of the amounts appropriated to the department of revenue in 1985-86 under section 20.566 (1) (a) of the statutes for administrative expenses of this program, $299,400 shall be placed in unallotted reserve. These moneys may be released from unallotted reserve by the joint committee on finance upon review and approval of a plan submitted by the department for expenditure of these moneys.

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Impose an Additional Collection Fee on Delinquents Who Fail to Resolve Their Accounts under Amnesty

DESCRIPTION OF CURRENT LAW AND PROBLEM:

1997 Wisconsin Act 27 requires the Wisconsin Department of Revenue (WDOR) to propose provisions for an amnesty proposal to the Joint Committee on Finance in December 1997. WDOR's proposal includes providing a 20% reduction in the amount owed for those tax liabilities recorded on WDOR's records as of October 1, 1997. All delinquencies recorded as of October 1, 1997 qualify for this reduction unless:

- The taxpayer was notified by date of the application that they were a party to a criminal investigation or litigation relating to any tax administered by WDOR.
- The taxpayer was notified during amnesty period of an adverse determination of appeal to TAC or other court.
- The taxpayer was granted forgiveness for any obligations in the 1985 amnesty program.
- The taxpayer had filed for relief under any chapter of the U.S. bankruptcy code.
- The delinquency was subject to civil collection actions by WDOR, initiated before the application was received, under Section 71.91, or any other state law pertaining to creditor enforcement proceedings.
- The delinquency was a nonresident account assigned to a collection agency **and** the subject of a civil collection proceeding before any court.
- The delinquency was being appealed to the department, TAC, or any court, unless that appeal is withdrawn by the taxpayer.
- The delinquency is a field audit issued under Section 71.74(2) or 77.59(2).
- The delinquency consists of local option taxes.

In the amnesty program which WDOR ran in 1985, approximately half the taxpayers who applied for amnesty failed to follow through and pay the money owed under amnesty. They were, however, successful in postponing WDOR collection action during the amnesty period.

As part of a recent amnesty program, the State of New Jersey enacted a 5% penalty on those delinquents who qualified for the amnesty program but did not resolve their accounts under amnesty. New Jersey was quite successful in using this as a further incentive to get delinquent taxpayers to apply for amnesty and follow through on their commitment.

RECOMMENDATION:

Assess an additional collection fee (computed as 5% of the delinquent balance of tax, interest and penalties on the day following the close of the amnesty application period) on the delinquent accounts of taxpayers who qualified for the 20% reduction under amnesty, but did not resolve their accounts under amnesty. The proceeds of this additional delinquent tax collection fee should be deposited in the delinquent tax collection program revenue account established by section 20.566(1)(hq) of the Wisconsin Statutes.

FISCAL/ADMINISTRATIVE IMPACT:

This fee will provide additional revenue to the delinquent tax collection appropriation to compensate for the revenue lost by diverting delinquent tax collectors to work on the amnesty program. It can also be used in the amnesty publicity program as an additional incentive for people to participate in the amnesty program. It is estimated that this proposal will result in the imposition of fees amounting to $24 million and fee collections of $5.76 million in the three fiscal years following the imposition.

DRAFTING INSTRUCTIONS:

Include language in amnesty legislation establishing this additional collection fee. Insert language in section 20.566(1)(hq) to allow deposit of this fee into the delinquent tax collection fee appropriation account.

EFFECTIVE DATE:

The department may assess the fee upon completion of the amnesty application period for those who qualify but don't apply. For those who do apply, the department may assess the fee when the taxpayer does not pay the delinquency by the specified amnesty due date.

PERSON TO CONTACT:

Vicki R. Siekert (608) 266-9635

Prepared by: Vicki R. Siekert
September 29, 1997

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Attachment of Public Employe Trust Fund Benefit Payments for State Tax Liabilities

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Section 40.08 (1), Wisconsin Statutes, provides that payments resulting from benefit plans administered by the Department of Employe Trust Funds are not subject to execution, levy, garnishment, or other attachment relative to satisfaction of debts owed by the plan recipients. Certain delinquent taxpayers who draw state employe pensions have structured their financial affairs, through marital property agreements and otherwise, to make themselves and their spouses impossible to collect from.

It is inequitable and unwise public policy to allow taxpayers owing delinquent state taxes to the Department of Revenue to draw a state employe public pension, and at the same time, shield that public pension from payment of state tax debts incurred by the benefit recipient. It also places the Department of Revenue at a competitive disadvantage to the Internal Revenue Service, which does attach such benefit payments in order to satisfy delinquent federal tax obligations.

RECOMMENDATION:

Amend Section 40.08(1), Wisconsin Statutes, to allow attachment of benefit payments administered by the Department of Employe Trust Funds, in order to satisfy delinquent state tax obligations owing to the Department of Revenue.

FISCAL/ADMINISTRATIVE IMPACT:

Will provide for more fair and effective tax administration. It is estimated that this provisions will result in additional collections of $50,000 annually.

EFFECTIVE DATE:

Day after publication. First applies to collection actions initiated by the Department of Revenue on the effective date of the bill regardless of when the tax debt being satisfied was incurred.

DRAFTING INSTRUCTIONS:

See recommendation.

PERSON TO CONTACT:

James Harnett, 267-7442

Prepared by:

James Harnett

Wisconsin Department of Revenue
IS&E Division
October 30, 1997

TITLE: Expansion of Statutory Authority to Write Off Delinquent Tax Obligations

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Existing Section 73.03(27), Wisconsin Statutes, authorizes the Department of Revenue to administratively write off delinquent tax obligations under specific and limited circumstances following a determination that such debts are uncollectible. The limited circumstances allowing a write off include: 1) when the debt is discharged under federal bankruptcy legislation, 2) when the debt is $10.00 or less and over 3 years old, 3) the accounts of deceased persons 3 years after the closing of their probate estates, 4) the accounts of dissolved corporations over 3 years after the corporate dissolution, and 5) accounts delinquent over 10 years old or over 6 years old if the delinquency is based on estimated assessments.

The delinquent balance due the Department of Revenue includes a considerable amount of debt that the department has determined to be uncollectible, but does not fit within any of the above statutory criteria. The inability to write off these amounts inaccurately inflates the delinquent balance.

Other states maintain more flexibility and authority to administratively write off obligations when appropriate under the circumstances. See, for example, Minnesota State Section 16D.09, a copy of which is attached.

RECOMMENDATION:

Amend Section 73.03(27), Wisconsin Statutes, to expand the department's authority to administratively write off at its sole discretion delinquent tax obligations following a determination that the debts are uncollectible. Remove the limiting criteria contained in the existing statute. Provide that an administrative write off does not relieve the legal obligation of the debtor to pay the debt.

FISCAL/ADMINISTRATIVE IMPACT:

The enactment of the above proposal would result in a more accurate total delinquent tax balance owing to the Department of Revenue, which is realistically subject to collection. It will also allow the department's collection staff to focus on debts with a higher potential for collection.

EFFECTIVE DATE:

Date after publication.

DRAFTING INSTRUCTIONS:

See Recommendation.

PERSON TO CONTACT:

Vicki Siekert, 266-9635
Ron Danielski, 266-8430
Mark Williams, 266-1942
James Harnett, 267-7442

Prepared by:

James Harnett

16D.09 UNCOLLECTIBLE DEBTS.

When a debt is determined by a state agency to be uncollectible, the debt may be written off by the state agency from the state agency's financial accounting records and no longer recognized as an account receivable for financial reporting purposes. A debt is considered to be uncollectible when (1) all reasonable collection efforts have been exhausted, (2) the cost of further collection action will exceed the amount recoverable, (3) the debt is legally without merit or cannot be substantiated by evidence, (4) the debtor cannot be located, (5) the available assets or income, current or anticipated, that may be available for payment of the debt are insufficient, (6) the debt has been discharged in bankruptcy, (7) the applicable statute of limitations for collection of the debt has expired, or (8) it is not in the public interest to pursue collection of the debt. The determination of the uncollectibility of a debt must be reported by the state agency along with the basis for that decision as part of its quarterly reports to the commissioner. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

History: *1994 c 632 art 3 s 43*

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Authorize Reciprocal Refund Offset Agreement with Internal Revenue Service (IRS)

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Legislation has been introduced in the last several Congressional sessions to allow the IRS to offset federal income tax refunds against state tax debts. Although this legislation has not yet been successful, many states and the Federation of Tax Administrators continue to lobby for its passage.

If this legislation is successful, the Wisconsin Department of Revenue (WDOR) would like to be in a position to reciprocate by having the authority to offset state tax refunds against federal tax debts. However, WDOR does not want to allow offset of state tax refunds against federal tax liabilities unless the IRS is authorized to reciprocate.

RECOMMENDATION:

Authorize WDOR to enter into an agreement with the IRS that would allow reciprocal offsetting of tax refunds against the other entity's delinquent liabilities. The priority of offsetting state tax refunds against federal tax debts should fall after the set offs required in section 71.93 and 71.935 of the Wisconsin Statutes.

FISCAL/ADMINISTRATIVE IMPACT:

A reciprocal refund program would benefit both the WDOR and the IRS by allowing collection of more delinquent tax liabilities.

DRAFTING INSTRUCTIONS:

Include authorization for agreement in section 73.03 of the Wisconsin Statutes.

EFFECTIVE DATE:

Upon publication.

PERSON TO CONTACT:

Vicki R. Siekert (608) 266-9635

Prepared by: Vicki R. Siekert
September 30, 1997

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Reduce the Threshold for the Vendor Setoff Program

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Section 73.12 of the Wisconsin Statutes authorizes the Department of Revenue identify a vendor with state contracts who owes delinquent taxes to the Department of Administration. The Department of Administration will then set off contract payments to that vendor against the delinquent tax owed. This setoff process is allowed if the value of the vendor's contract for goods or services is at least $3,000. However, many state contracts are for less than $3,000, allowing the state to pay out money to vendors who owe tax to the state.

RECOMMENDATION:

Allow the setoff of vendor contract payments if the contract is at least $500, rather than at least $3,000.

FISCAL/ADMINISTRATIVE IMPACT:

This change will increase the number of collections made under the vendor setoff program and reduce the delinquent taxes owed to WDOR. It is estimated that additional collections of $50,000 will result from this proposal.

DRAFTING INSTRUCTIONS:

Change section 73.12(1)(b) to refer to contracts of at least $500 rather than contracts of at least $3,000.

EFFECTIVE DATE:

Upon publication.

PERSON TO CONTACT:

Vicki R. Siekert (608) 266-9635

Prepared by: Vicki R. Siekert
September 29, 1997

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Allow the Wisconsin Department of Revenue (WDOR) to Require that Installment Agreement Payments Be Made by Electronic Funds Transfer (EFT)

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Section 71.92(2) of the Wisconsin Statutes authorizes WDOR to enter into installment agreements with taxpayers when the taxpayer is unable to pay the full amount of his or her delinquent tax. Since WDOR's collection philosophy encourages voluntary resolution of delinquent accounts before involuntary collection actions are taken, installment agreements are used with great frequency (approximately 12,000 initiated annually).

While they are taxpayer friendly, installment agreements are a labor intensive method to resolve a delinquent account. Multiple payments must be processed rather than one, since most installment agreements run from six months to one year. Also, many taxpayers on installment agreements will occasionally miss payments or default on the agreement altogether. Revenue agents must take time each month to review their lists of missed installments to determine whether they need to send a follow-up letter or proceed to involuntary collection action.

RECOMMENDATION:

It is recommended that WDOR be given the authority to require taxpayers to make installment agreement payments through electronic funds transfer. The automatic withdrawal of periodic payments, such as monthly mortgage payments, is commonplace in today's business environment. It would allow payments to be processed more efficiently and missing payments to be identified more quickly.

FISCAL/ADMINISTRATIVE IMPACT:

Installment agreement payments made through EFT would eliminate time currently spent entering paper payments received and reduce the number of missed installments that need to be followed up on. The time currently spent on these tasks could be devoted to more direct revenue-producing activities.

Requiring EFT installment agreement payments would also result in fewer missed payments and more successfully completed installment agreements. The Minnesota Department of Revenue currently collects over 90% of their installment agreement payments through EFT transactions and finds that this program has reduced their

default rate on installment agreements by one-third.

It is estimated that this proposal will result in additional collections of $2 million dollars annually.

DRAFTING INSTRUCTIONS:

Add language to section 71.92(2) of the Wisconsin Statutes that allows WDOR to require electronic funds transfer as the means of making installment agreement payments.

EFFECTIVE DATE:

Upon publication.

PERSON TO CONTACT:

Vicki R. Siekert, (608) 266-9635.

Prepared by: Vicki R. Siekert
September 29, 1997

Wisconsin Department of Revenue
IS&E Division
November 20, 1997

TITLE: Late Filing Fees Assessed on Withholding Tax Reports

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Section 71.65(3) Wis. Stats. requires employers to file withholding tax reports and deposit withheld taxes on a semi-monthly, monthly, quarterly, or annual basis. Withholding deposits are trust funds, and yet employers fail to file the reports and pay over the monies withheld from their employes' wages in a timely manner.

Sales, income, and franchise tax returns are subject to a late filing fee when not filed in a timely manner. There is no provision to assess a late filing fee for late-filed withholding tax reports.

Income and franchise tax late filing fees are appealable. Sales tax late filing fees are unappealable, although legislation has been introduced to make them apealable.

RECOMMENDATION:

This recommendation is to create the statutory language to enable the Department of Revenue to assess a $30 late filing fee unless the report was not timely filed because of the death of the person required to file or unless the return was not timely filed because of a reasonable cause and not because of neglect.

FISCAL/ADMINISTRATIVE IMPACT:

It is estimated that a $30 late filing fee will result in revenue of $1.5 million annually.

The additional costs to assess the late filing fee would be minimal once the initial programming is put in place. There would be more appeals of assessments.

The compliance rate would increase resulting in more actual assessments than estimates for failure to file. This increase in compliance would also result in monies being paid in a more timely manner.

EFFECTIVE DATE:

January 1, 1999

DRAFTING INSTRUCTIONS:

Amend Wisconsin Statute 71.83(3) to include withholding tax reports.

PERSON TO CONTACT: Linda Peterson, (608) 266-3265

Prepared by: Linda Peterson

Wisconsin Department of Revenue
IS&E Division
October 29, 1997

TITLE: On-line Access for the Wisconsin Department of Revenue (WDOR) to files at the Departments of Transportation, Workforce Development and Corrections.

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Currently WDOR has information exchange agreements with the Departments of Transportation, Workforce Development and Corrections but does not always have the authority to access information on-line or to access all the information available.

RECOMMENDATION:

Create the statutory authority for WDOR to have on-line access to the files at the Departments of Transportation, Workforce Development and Corrections.

Information from other agencies' files can be used to locate nonfilers or underreporters, to locate delinquent taxpayers or their assets to aid delinquent collection, to identify fraudulent tax returns and to provide information for prosecutions. For example, if the Department of Corrections provided WDOR with information on the names and social security numbers of prison inmates, WDOR could identify fraudulent returns claiming refunds and prevent the issuance of refunds.

FISCAL/ADMINISTRATIVE IMPACT:

Increased efficiency for WDOR in locating taxpayers and/or assets.

Increase in the ability of WDOR to identify fraudulent returns claiming refunds before checks are issued.

Increase of collections, both in timing and actual dollars.

DRAFTING INSTRUCTIONS:

See recommendation.

EFFECTIVE DATE: Upon publication.

PERSON TO CONTACT: Linda Peterson, (608) 266-3265

Prepared by: Linda Peterson

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

Cate S. Zeuske
Secretary of Revenue

November 20, 1997

The Honorable Brian Burke, Co-Chair
The Honorable John Gard, Co-Chair
Members, Joint Committee on Finance
115 South Capitol
Madison, WI 53702

Dear Senator Burke and Representative Gard:

Summary of Request

The Department of Revenue requests $610,300 in FY98 and $1,509,500 in FY98 under s. 20.566(1)(a) to conduct a tax amnesty program in 1998.

Background of Request

The 1997 Wisconsin Act 27 directed the Department of Revenue submit a plan for a tax amnesty program to the Joint Committee on Finance for its consideration. This letter and the attached documents propose a plan for a tax amnesty in 1998.

The proposed 1998 tax amnesty program is similar to the 1985 tax amnesty program in that it would provide limited forgiveness of existing tax delinquencies; and forgiveness of penalties, fees and a portion of interest on eligible tax obligations that have not been previously reported to the department or have not been entered to the delinquent roll. The program would also require taxpayer application, filing of all returns, and full payment of remaining amounts due within a specified time. The proposed taxpayer application period begins June 15, 1998 and ends August 14, 1998.

The 1998 program plan proposes a number of differences from the 1985 program that are designed to help ensure the new program's success. Included in the program is a requirement for payment of up to $200 with the amnesty application, extensive use of publicity, and use of an interactive voice response application for telephone inquiries. The plan proposes the following exclusions from the new program:

- Obligations resulting from field audits issued under s. 71.74(2) and s. 77.59(2) would not be eligible for amnesty. The 1997 Wisconsin Act 27 included a separate provision for additional revenue from field audits and the department is concerned about double counting revenue if field audit obligations are eligible.

- Local option tax obligations would not be eligible for amnesty. It is questionable whether the legislature has the authority to grant amnesty on local option taxes.

- No part of the delinquent tax collection fee would be forgiven based on reduced amounts due under amnesty. The department's delinquent tax collection program depends on revenue from this fee to operate; this program should not be jeopardized by amnesty.

The plan includes recommendations for new statutory enforcement tools which should take effect immediately after the amnesty period to increase the incentive for delinquent taxpayers to take advantage of amnesty and to ensure continued taxpayer compliance with the tax laws. These recommendations are included for legislative review.

The plan also identifies expenditures required to develop and conduct a successful tax amnesty program. Similar to the 1985 program, the new program will require the creation of a separate Amnesty Unit. Funding will be required in 1997-98 to acquire equipment and space for the Amnesty Unit, print tax amnesty applications and brochures about the program, develop publicity, develop an interactive voice response application, and develop computer processes to support the program, and begin telephone assistance and promotion activities. Funding will be required in 1998-99 to print and send notices of balance due to amnesty applicants, run newspaper, television and radio advertisements, and provide permanent overtime salaries, LTE salaries and other support for Amnesty Unit operations. Program funding requirements are detailed in the attached plan.

We hope you will look favorably upon our proposal and provide the tools and resources needed to conduct the program in an effective manner and to ensure that Wisconsin taxpayers will continue to have faith in the integrity and fairness of the Wisconsin tax system.

How Request Meets Statutory Criteria

Section 13.101(3), Stats., provides that an agency may request supplemental funding for purposes that have been authorized or directed by the legislature. If Joint Committee on Finance approves the tax amnesty plan, s. 20.566(1)(a) does not have sufficient funding to implement the plan.

Sincerely,

Kathleen D. Heuer

Kathleen D. Heuer
Deputy Secretary of Revenue

KDH/meh

TAX AMNESTY PROGRAM ACTION PLAN

A. DESCRIPTION AND FACT FINDING

Purpose of Action Plan

1997 Wisconsin Act 27 requires the Wisconsin Department of Revenue (WDOR) to develop a proposal for a tax amnesty program that is materially similar to Wisconsin's 1985 tax amnesty and to present it to the Joint Committee on Finance in December 1997. Based on the 1985 Wisconsin amnesty program, the Legislative Fiscal Bureau projected increased general fund revenue collections of $40 million from an amnesty program. This action plan outlines WDOR's plan for an amnesty program and describes the enabling legislation and resources needed to accomplish the plan.

Description of Wisconsin's First Amnesty Program

Goals of 1985 Amnesty Program

Wisconsin enacted a tax amnesty program in 1985, during a period when many state governments were considering and implementing amnesty programs. The amnesty program was offered to taxpayers as a one-time opportunity to clear up their previous tax liabilities at a reduced cost. It was enacted in combination with tougher enforcement measures as part of an overall plan to increase the level of compliance with the state's tax laws. The goals identified for this program were to reduce the number of persons on the delinquent tax roll, to bring taxpayers with unknown liabilities into the system, and to improve the overall level of compliance in the future. The revenue collected in the amnesty program was earmarked to fund a new property tax deferral program for elderly homeowners.

Provisions of 1985 Amnesty Program

The tax amnesty program established by 1985 Wisconsin Act 29 applied to all of the state taxes collected by WDOR at that time. The period during which amnesty applications were accepted ran from September 15 to November 22, 1985. Three categories of liabilities and forgiveness were identified:

- For unpaid liabilities that were on record as delinquent as of May 15, 1985, 20% of the delinquent balance was forgiven, up to a maximum of $5,000. Amnesty was not allowed unless all tax returns or other documents corresponding with the liability were properly filed with WDOR.

- For unpaid liabilities that were established before or during the amnesty period, but were not yet recorded as delinquent on May 15, 1985, WDOR waived penalties and fees and lowered the interest rate from 1-1/2% per month to 1% per month.

- For unpaid liabilities that were neither reported nor established, the taxpayers were allowed to file returns and make payments. WDOR waived penalties and fees, lowered the interest rate from 1-1/2% per month to 1% per month and waived the right to seek prosecution.

Some situations were excluded from the amnesty program:

- Liabilities that were under appeal to WDOR, the Tax Appeals Commission or a court, unless the appeal was withdrawn by the taxpayer.

- Persons subject to a tax-related criminal investigation or pending criminal prosecution relating to the taxes administered by WDOR.

- Amounts subject to civil collection actions (for example, garnishments or executions) by WDOR initiated before the amnesty application was received, including civil collection actions against nonresident accounts assigned to a collection agency by WDOR.

- Taxpayers notified during the amnesty period of an adverse determination of his or her appeal to the Tax Appeals Commission or any court.

In addition, when persons who applied for amnesty failed to pay the balance due under amnesty, or made only partial payment, the forgiveness of amounts due or waiver of penalties, fees and interest were withdrawn.

Results of Amnesty Program

WDOR received 25,700 applications for amnesty during the 1985 program, 11,200 of them on the final day of the application period. Of these applicants, slightly less than half actually filed the returns and made the payments necessary to qualify for forgiveness under amnesty.

The total amount collected under amnesty was $26.8 million dollars. A total of $6.9 million of liability was forgiven in amnesty. The dollars collected were broken down as follows: 43% from sales tax, 25% from individual income tax, 22% from corporate income tax and the remainder from other taxes.

The number of taxpayers on the delinquent tax roll was reduced by 5,750, or 8%. The dollars of delinquent taxes collected were $7.2 million, or 3.5% of the pre-amnesty delinquent roll.

The remaining $19.6 collected in amnesty came from liabilities that were not yet delinquent. Only 235 applications came from persons previously unknown to WDOR. Amnesty collections can be broken down as follows based on the work area in which the collection occurred:

Work Area	Type of Bills	Collections
Appellate	Bills from all sources that have been appealed	*$5,056,548
Audit	Office audits for income and corporations, field audits for income, corporation & sales taxes	*$6,374,435
Central Compliance	Processing bills, office audits and estimated assessments for sales and withholding taxes	$7,052,936
Inheritance & Excise	All bills for inheritance, motor fuel, beverage and tobacco taxes	$423,849
Collection & Accounting	Processing bills for income and corporation taxes	$692,232

* Of the bills collected in Appellate and Audit, approximately $8 million dollars resulted from field audits.

Of those applying for amnesty on nondelinquent liabilities, 239 were for amounts under appeal, where the applicant had to withdraw the appeal to qualify for amnesty. Approximately half of these liabilities were field audits of businesses that had appealed the assessment of a negligence penalty. Approximately 1,000 more of those who applied for amnesty on nondelinquent liabilities represented field audits that had not been appealed or had not yet gone delinquent. The tax and interest on these liabilities would probably have been collected regardless of an amnesty program.

The Audit Bureau maintains a list of taxpayers that are regularly reaudited, either because of their size or because past audits have identified problems that may continue. Over 50 of the taxpayers that applied for amnesty fell into this category, making 16 of the 50 largest amnesty payments. The tax and interest on these liabilities would probably also have been collected regardless of an amnesty program.

In order to administer the amnesty program, WDOR incurred costs of $959,700. This amount included the cost of advertising, mailings to taxpayers, an 800 number, limited

term employes and over 14,500 hours of overtime worked by department employes. The 64,000 hours devoted to the amnesty program in total are the equivalent of 30 years of staff time. The ratio of amnesty collections to program costs was 28 to one.

Problems with the 1985 Program

Several problem areas were identified in the 1985 amnesty program:

- Many people who applied never paid their liabilities. Although some applicants may have simply had unrealistic expectations of their ability to raise enough money to pay the amount due under amnesty, many others presumably applied for amnesty only as a means of delaying collection action on their liability, with no intention of paying.

- Collections under amnesty dragged out for a long time due to the provision that allowed the taxpayer 90 days from the issuance of a tax-due notice under amnesty to pay the reduced amount. This 90-day payment period also contributed to delaying collection action by WDOR.

- Limited term employes could perform some amnesty related tasks, but permanent employes with tax expertise were needed to do much of the work. This was partially dealt with by working many hours of overtime, but the devotion of permanent staff to amnesty was detrimental to permanent staff performing their ordinarily assigned functions.

- Some portion of what was collected would have been collected anyway. The 50 largest payments received under amnesty accounted for $9.8 million, or 37% of the total collected. These payments were mostly payments made on large corporation field audits in which the taxpayer received forgiveness of penalties and a portion of the interest.

Post Amnesty Enforcement Provisions

1985 Wisconsin Act 29 also contained a number of measures designed to follow amnesty with a tougher enforcement posture. These measures included:

- The authority to request that the Department of Administration withhold payment to vendors in certain instances if the vendors owe taxes to the state.

- The authority to refuse to issue or renew seller's permits for any type of tax compliance. Previously, this power was limited only to sales tax.

- An increase in the penalties for failure to file and the filing of false income tax returns and creation of a penalty for the act of assisting a person to file a false return.

- The administrative authority to levy against the property of taxpayers due to their failure to pay delinquent taxes.

- Expansion of the definition of personal liability for the payment of the taxes of a business to include other persons, such as employes or accountants, who are responsible for making tax payments to the state for the business.

- The rules regarding subcontractors were changed so that they were considered employes for withholding tax purposes.

- Creation of 10 additional revenue agent positions to provide increased enforcement staffing.

These provisions, in particular the administrative levy, have contributed significantly to the success of WDOR's post-amnesty collection program.

Other States' Experiences with Second Amnesty Programs

New York

New York has run three amnesty programs in 1986, 1994 and 1997. The second amnesty program specifically targeted non-resident non-filers and use tax. The first and third programs were very similar in nature to each other and to Wisconsin's first amnesty. The only articulated goal for these amnesty programs was the collection of revenue.

In 1997, most of the New York State business and individual taxes were eligible, as well as various city taxes. However, corporations with over 500 employes nationwide were not eligible. Amnesty was available to residents and non-residents, nonfilers and account receivables. Those who had received any prior amnesty benefit were ineligible. Unlike in 1986, the returns for the most recent tax year (1995 returns filed in 1996), were not eligible.

The revenue target for the 1996 program was virtually the same as that of the 1985 program, $400 million. However, New York revenue managers say that only an intensive $4 million advertising campaign allowed them to reach collections of $300 million in this amnesty.

Connecticut

Connecticut has run two amnesty programs, one in 1990 and one in 1995. Amnesty collections for 1990 were $50 million and for 1995 were $45 million. Connecticut first enacted an income tax in 1992, between the two amnesty programs. Their second amnesty program was targeted at nonfilers and underreporters of this new tax program. Connecticut's amnesty budget for the second program was $820,000. Although Connecticut's amnesty provisions were similar to Wisconsin's, the addition of a large new tax program between the two amnesties makes the situation less comparable.

New Jersey

New Jersey's collections went from $70 million in 1986 to $360 million in the 1996 program. They did this by forgiving ALL interest, imposing an additional 5% penalty on those that could have, but did not, take advantage of the amnesty and extensively advertising using an outside marketing firm. However, the cost of this success was $204 million in tax forgiven and a budget of $10 million in operating expenses, including $4 million for advertising.

In addition to the outside marketing firm, the New Jersey Department of Revenue utilized 90 to 100 staff persons to give speeches all over the state for a period of time before the amnesty program actually began.

General Comments on Other States

Some caution should be used in looking at the amnesty collection figures from New York and New Jersey because of the methodology they used in counting amnesty collections. New York included the net income tax due BEFORE withholding as amnesty collections on income tax returns. New Jersey's program ran during the income tax filing season and counted current year returns filed by amnesty applicants as part of amnesty collections.

All three states credited the heavy use of advertising as vital to the success of a second amnesty program. New York and New Jersey both felt that their second amnesty program faced an additional hurdle because their first program had been advertised as a one time opportunity. All three states noted that an amnesty program also meant lost opportunity since revenue-producing employes were diverted to work on the amnesty program.