



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2011 Wisconsin Act 68
[September 2011 Special Session
Senate Bill 23]

**Duties of the Department of
Revenue**

2011 Wisconsin Act 68 makes numerous changes to the duties of the Department of Revenue (DOR). These changes include:

- A requirement that, generally, DOR must show that a taxpayer's action or inaction constituted "willful neglect" rather than "reasonable cause" prior to imposing a penalty on the taxpayer as a result of that action or inaction.
- Expansion of DOR's prohibition on employees' "browsing" of taxpayer information for purposes unrelated to the employee's duties. As compared to prior law, the Act expands the "browsing" prohibition to apply to additional types of information maintained by DOR and additional types of taxes administered by DOR.
- Changes to the citation ability of the Tax Appeals Commission. Under the Act, the commission may cite as authority a conclusion of law or other holding in any previous decision or order of the commission, unless that conclusion of law or holding has been reversed, overruled, or vacated on appeal or by a subsequent decision or order of the commission.
- Creation of provisions that specify the manner in which a taxpayer may rely on published guidance provided by DOR and that limit DOR's ability to take positions that are contrary to its written guidance.
- Creation of additional procedures in ch. 227, Stats., relating to petitions to DOR to promulgate administrative rules, as well as issuance of declaratory rulings by DOR. Additionally, the Act amends ch. 227, Stats., to clarify that the Tax Appeals Commission, as

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

well as a hearing examiner, may award costs and attorney fees to a party that successfully responds to a frivolous petition, claim, or defense.

- Specification that a class action may not be maintained under state law if the relief sought under the action includes the refund of or damages associated with a tax administered by the state.
- Direction to DOR to include, as part of its 2013-15 budget proposal, a provision that is substantially similar to a provision of September 2011 Special Session Senate Bill 23 relating to taxpayer reliance on past audits. This provision was included in the special session bill but eliminated prior to Senate passage by Senate Amendment 2 to the bill.

Effective date: 2011 Wisconsin Act 68 takes effect on March 1, 2012.

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SG:ksm