

CR 90-100

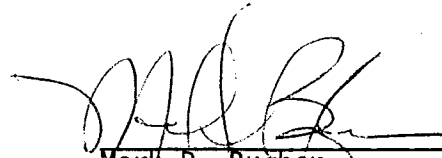
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to examination of tax returns was duly approved and adopted by this department on December 4, 1990.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 4th day of December, 1990.



Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/ELC3250Q

RECEIVED

DEC 6 1990
4:00 pm
Revisor of Statutes
Bureau

3-1-91

RECEIVED

DEC 6 1990

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING AND RECREATING RULES

The Wisconsin Department of Revenue adopts an order to repeal and recreate Tax 1.11 relating to the examination of Wisconsin tax returns.

Revisor of Statutes
Bureau

Analysis by the Department of Revenue

Statutory authority: s. 71.80(1)(c), Stats.

Statutes interpreted: ss. 70.375(2)(b), 71.78, 72.06, 77.61(5), 77.76(3), 77.79, 78.80(3) and (4), 139.11(4), 139.38(6) and 139.82(6), Stats.

SECTION 1. Tax 1.11 is repealed and recreated for the following reasons:

a. Update statutory references under 1987 Wisconsin Act 312 and include those provisions under county sales and use, fermented malt beverage, intoxicating liquor and tobacco products taxes not previously addressed in the rule.

b. Those persons allowed to examine returns not previously addressed in the rule, but provided for under the statutes, are added, specifically, taxpayers and their spouses or former spouses, persons designated by court order, Board of Arbitration, Commissioner of Insurance, Legislative Fiscal Bureau, Lottery Board, and Department of Development.

c. It is provided that a court order must be signed by a judge of record per department policy.

d. The format of the rule is changed to make it more concise and easier to follow per Legislative Council Rules Clearinghouse standards.

SECTION 1. Tax 1.11 is repealed and recreated to read:

Tax 1.11 REQUIREMENTS FOR EXAMINATION OF RETURNS. (ss. 70.375(2)(b), 71.78, 72.06, 77.61(5), 77.76(3), 77.79, 78.80(3) and (4), 139.11(4), 139.38(6) and 139.82(6), Stats.) (1) PUBLIC OFFICER DEFINED. In this section, "public officer" means any person appointed or elected according to law, who has continuous duties, has taken an oath of office and who is responsible for the exercise of some portion of the sovereign power of this state, another state or the United States, in which the public has a concern. One, but not the sole, indicium of responsibility for exercising the sovereign power is the authority to make final policy with regard to those duties of a public officer requiring access to tax files under this section.

[CR 90-100]

(2) GENERAL. The provisions of ss. 70.375(2)(b), 71.78, 72.06, 77.61(5), 77.76(3), 77.79, 78.80(3) and (4), 139.11(4), 139.38(6) and 139.82(6), Stats., apply to the examination of mining net proceeds, income, franchise, gift, fiduciary, partnership, inheritance, estate, sales and use, county sales and use, withholding, motor fuel, general aviation fuel, special fuel, fermented malt beverage, distilled spirits and wine, cigarette and tobacco product tax returns and tax credit claims. No person may examine or receive information from a tax return or tax credit claim unless specifically authorized to do so by the appropriate statute.

(3) PERSONS WHO MAY EXAMINE RETURNS. (a) Public officers of the federal government or other state governments. No information may be divulged to a public officer of the federal government or another state government or the authorized agents of the officer under the provisions specified in sub. (2) unless the information requested is necessary in the administration of the tax laws of the government; the government accords similar rights of examination or information to the Wisconsin department of revenue; the government has entered into an agreement with the department for the disclosure or exchange of information; and the public officer first complies with all of the following:

1. Specifies in writing the purpose for each requested examination, the statutory or other authority showing the duties of the office and the relation of the purpose to the duties of the office.

2. Specifies in writing the name, address and title of the agent authorized to examine tax returns.

3. Provides evidence that he or she is a public officer.

(b) Members of the joint, senate or assembly committee on legislative organization. 1. No information may be divulged to members of the joint committee on legislative organization, senate committee on organization or

assembly committee on organization, or to any agent of these committees under the provisions specified in sub. (2) unless all of the following requirements are first complied with:

a. Specification in writing of the purpose for each requested examination and the relation of the purpose to the official duties of the committee requesting the examination of tax returns.

b. Specification in writing of the name, address and title of the committee member or agent authorized to examine tax returns.

c. Certification by the chairperson of the committee that the committee, by a majority vote of a quorum of its members, has approved the requested examination of tax returns by the committee member or agent.

2. Sales and use tax returns may not be examined by the joint committee on legislative organization.

(c) Attorney general or department of justice employes. No information may be divulged to the attorney general or department of justice employes under the provisions specified in sub. (2) unless all of the following requirements are first complied with:

1. The attorney general shall specify in writing the purpose for each requested examination, the statutory authority or other authority showing the duties of the office and the relation of the purpose to the duties of the office.

2. Each requested examination by a department of justice employe shall include the data in par. (c)1 and an authorization identifying the employe by name, address and title. The authorization shall be signed and approved by the attorney general on whose behalf the department of justice employe is acting.

(d) District attorneys. No information may be divulged to district attorneys under the provisions specified in sub. (2) unless the following requirements are first complied with:

1. The tax information to be examined by the district attorney is for use in preparation for a judicial proceeding or an investigation which may result in a judicial proceeding involving any of the taxes or tax credits referred to in sub. (2) and one of the following applies:

a. The taxpayer is or may be a party to the proceeding.

b. The treatment of an item reflected in the tax information is or may be related to the resolution of an issue in the proceeding or investigation.

c. The tax information relates or may relate to a transactional relationship between the taxpayer and a person who is or may be a party to the proceeding which affects or may affect the resolution of an issue in the proceeding or investigation.

2. The district attorney specifies in writing the purpose for each requested examination, the statutory or other authority showing the duties of the office and the relation of the purpose to the duties of the office.

(e) Employees of this state. No information may be divulged to employees of this state under the provisions specified in sub. (2) unless all of the following requirements are first complied with:

1. The public officer of the department, division, bureau, board or commission of this state specifies in writing the purpose for each requested examination, the statutory or other authority showing the duties of the office and the relation of the purpose to the duties of the office, and the name, address and title of the employe of this state authorized to examine returns.

2. The department of revenue deems the examination necessary for the employe to perform his or her duties under contracts or agreements between the department of revenue and the department, division, bureau, board or commission of this state relating to the administration of tax laws or child support enforcement under s. 46.25, Stats.

(f) Taxpayers and spouses or former spouses of taxpayers. 1. No information may be divulged to a taxpayer under the provisions specified in sub. (2) unless the taxpayer, an officer of the taxpayer corporation or the authorized representative of the taxpayer provides appropriate identification.

2. No income tax information may be divulged to a taxpayer's spouse or former spouse under the provisions specified in sub. (2) except in the following cases:

a. In the case of a joint income tax return, the spouse or former spouse signed the joint return.

b. In the case of a separate income tax return, for the 1986 tax year and thereafter, the spouse or former spouse shows that the spouse or former spouse may be liable, or the spouse's or former spouse's property is subject to collection, for a delinquency relating to the tax return requested to be examined.

c. In the case of a combined income tax return, for the 1985 tax year and prior tax years, the spouse or former spouse signed the combined return.

(g) Persons designated by court order. No information may be divulged to a person designated by a court order under the provisions specified in sub. (2) unless all of the following requirements are first complied with:

1. The person serves a copy of the court order signed by a judge of a court of record on the custodian of files.

2. The order recites that the information contained in the tax return requested to be examined is relevant to the pending action for which the order is issued.

(4) SPECIAL SITUATIONS. (a) Board of arbitration. A member of the board of arbitration established under s. 71.10(7), Stats., or a consultant under joint contract with the states of Minnesota and Wisconsin may examine income tax returns for purposes of determining the reciprocity loss to which either state is entitled.

(b) Commissioner of insurance. The office of the commissioner of insurance may request and receive a list of names and addresses of persons who indicate they are self-insurers on their annual withholding reports. The office of the commissioner of insurance may not examine tax returns of persons appearing on the list.

(c) Legislative fiscal bureau. Employees of the legislative fiscal bureau, to the extent the department deems the examination necessary to perform their duties under contracts or agreements between the department of revenue and the legislative fiscal bureau relating to the review and analysis of tax policy and state revenue collections, may examine tax returns under the provisions specified in sub. (2), except state and county sales and use tax returns.

(d) Lottery board. The executive director of the lottery board may request examination of tax returns for the purpose of withholding delinquent Wisconsin taxes, child support and other debts owing this state.

(e) Department of development. The secretary of the department of development and employees of that department may examine tax returns, except state and county sales and use tax returns, under the provisions specified in sub. (2), to the extent necessary to administer the development zone program under subch. VI of ch. 560, Stats.

(f) Refund setoffs. The department may supply the address of a debtor to an agency certifying a debt of the debtor under the refund setoff provisions of s. 71.93, Stats.

(g) Successor, guarantor or surety. Any person against whom the department asserts liability under ch. 77, Stats., may examine the related sales and use tax returns.

(h) Agreements. The department may, when satisfied that the restrictions imposed under sub. (2) will be adequately safeguarded and a beneficial tax

purpose is demonstrated, enter into agreements with governmental officials whereby information is disclosed or exchanged. In these instances, the requirements of this section may be modified in the discretion of the department.

(5) FORM OF REQUEST. (a) With each requested examination under subs. (3) and (4), there shall also be submitted in writing or by other means as approved by the department all of the following:

1. The name and address of each taxpayer whose return is requested.
2. The type of tax return or tax credit claim, such as mining net proceeds, income, franchise, gift, homestead credit, or sales and use tax.
3. The taxable period.
4. The taxpayer's social security number, if available, in the case of returns relating to individuals.
5. In the case of a request by a public officer, a statement indicating that the authorized agent understands the provisions specified in sub. (2) and that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of the provisions specified in sub. (2).

(b) The information required to be submitted to the department under sub. (5)(a) shall be submitted on forms provided by the department and shall be open to inspection by the public for a period of 2 years from the date the information is filed with the department. If a public officer, the attorney general or a district attorney responsible for enforcement of the criminal laws, in the statement required under sub. (3), declares that a return is being examined for the purpose of a criminal investigation, the department shall accept that declaration as prima facie evidence of the fact that making the knowledge public would result in harm to the public interest which

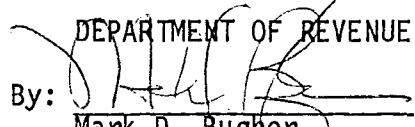
outweighs any benefit that would result from making it public, and the department shall not make the knowledge public for a period of 30 days from the date of filing the statement.

This rule order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

The rule order does not have a significant economic impact on a substantial number of small businesses.

Date: December 4, 1990

DEPARTMENT OF REVENUE
By: 
Mark D. Bugher
Secretary of Revenue

CKLEG/M020539K

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

FISCAL ESTIMATE

DCA-2048 (R 10/88)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

Subject

Requirements to Examine Returns

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or creates a sum sufficient appropriation.

- Increase Existing Appropriation
- Increase Existing Revenues
- Decrease Existing Appropriation
- Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be excessive to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory
- 4. Decrease Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____

Fund classes affected

- GPR FED PRO PPS SEG SEG-S

Affected Ch. 20 Appropriations

Appropriations Used in Arriving at Fiscal Estimate

The rule changes will have no effect on state tax revenues and should have no significant effect on Department administrative costs.

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

Long-Range Fiscal Implications

Agency/Person by (Name & Phone No.)

Wisconsin Department of Revenue
John Tuohy, 266-7817

Authorizing Signature/Telephone No. 266-2700

Margaret M. Dennis

Date

3/20/90

FISCAL ESTIMATE WORKSHEET

1989 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R 10/88) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Tax Rule 1.11

Subject: Requirements to Examine Returns

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+).			
A. State Costs by Category			
Salaries and Fringes		\$ -	\$ +
Staff Support Costs		-	+
Other State Costs		-	+
Local Assistance		-	+
Aids to Individuals or Organizations		-	+
TOTAL State Costs by Category		\$ -	\$ +
B. State Costs by Source of Funds			
GPR		\$ -	\$ +
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
C. FTE Position Changes		Increased Pos. + ()	Decreased Pos. - ()
III. State Revenues-			
Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.			
GPR Taxes		\$ -	\$ +
GPR Earned		-	+
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
TOTAL State Revenues		\$ -	\$ +

Net Annualized Fiscal Impact on State & Local Funds

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
NET Impact on State Funds	\$ (+) or None (-)		NET Impact on Local Funds	\$ (+) or None (-)	

Agency Prepared by (Name & Phone No.)

Authorized Signature/Telephone No.

Date



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

December 4, 1990

Gary L. Poulson
Assistant Revisor
2nd Floor
119 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

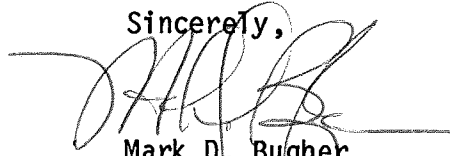
Re: Clearinghouse Rule 90-100

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to examination of tax returns.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/ELC3250P

Enclosure

cc: Douglas J. LaFollette, Secretary of State
Prentice Hall, Inc.
Commerce Clearinghouse, Inc.



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

December 4, 1990

Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, Wisconsin 53703

RECEIVED

DEC 6 1990

Revisor of Statutes
Bureau

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-100.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/ELC32500

Enclosure

cc: Revisor of Statutes