

Assembly Bill 6

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CHAPTER 157, LAWS OF 1967

AN ACT to amend 74.73 (1) and (2) of the statutes, relating to allowing interest in actions for recovery of unlawful tax collections.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

74.73 (1) and (2) of the statutes are amended to read:

74.73 (1) Any person aggrieved by the levy and collection of any unlawful tax assessed against him may file a claim therefor against the town, city, or village, ~~whether incorporated under general law or special charter,~~ which collected such tax in the manner prescribed by law for filing claims in other cases, ~~and~~ . If it ~~shall appear~~ *appears* that the tax for which such claim was filed or any part thereof is unlawful and that all conditions prescribed by law for the recovery of illegal taxes have been complied with, the ~~proper~~ town board, village board, or common council of ~~any city, whether incorporated under general law or special charter,~~ may allow and the ~~proper~~ town, city, or village treasurer shall pay such person the amount of ~~such~~ *the* claim found to be illegal and excessive. If any town, city, or village ~~shall fail or refuse~~ *fails or refuses* to allow ~~such~~ *the* claim, the claimant may have and maintain an action against the same for the recovery of all money so unlawfully levied and collected ~~of him, together with interest at the legal rate computed from the date of filing the claim.~~ Every such claim shall be filed, and every action to recover any money so paid shall be brought, within one year after such payment ~~and not thereafter.~~

(2) ~~In case~~ *If* any ~~such~~ town, city or village ~~shall have~~ *has* paid such claim or any judgment recovered thereon after having paid over to the county treasurer the state, county and metropolitan sewerage area debt retirement tax levied and collected as part of such unlawful tax, or ~~shall have~~ *has* paid any necessary expenses in defense of such action, ~~such~~ *the* town, city or village shall be credited by the county treasurer, on the settlement with the proper treasurer for the taxes of the ensuing year, the whole amount of such state, county and metropolitan sewerage area debt retirement tax so paid into the county treasury and the county's, state's and metropolitan sewerage area debt retirement tax proportionate share of the taxable costs, *interest* and expenses of suit, ~~as the case may be,~~ unless such claim or judgment ~~shall be~~ *is* the result of an error or defect, other than an error or defect of law, caused by ~~said~~ *the* town, city or village or official thereof, ~~and~~ . The county treasurer shall also be allowed by the state treasurer the amount of state tax so illegally collected and the state's proportionate share of such taxable costs, *interest* and expenses of suit and ~~shall be~~ *paid* in his settlement with the state treasurer next after the payment of such claim or the collection of such judgment. If any part of such unlawful tax ~~shall have been~~ *was* paid over to any school district before the payment of such claim or judgment, such town shall charge the same to such district with the proportionate share of the taxable costs, *interest* and expenses of suit, and the town clerk shall add the same to the taxes of ~~such~~ *the* school district in the next annual tax, ~~provided, however, that~~ .

(2m) No claim shall be allowed and no action shall be maintained under ~~the provisions~~ of this section unless it ~~shall appear~~ *appears* that the plaintiff has paid more than his equitable share of such taxes.

Approved November 3, 1967.