



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0282/P3
KRP:jld

DOA:.....Quinn, BB0012 - Federalize due dates of corporate and partnership
tax returns

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

This bill changes the due date for a partnership, limited liability company, corporation, or tax-option corporation to file a state income or franchise tax return so that the return is due on the same date that the entity's federal income tax return is due. The bill also provides that a corporation that is required to pay periodic installments of estimated Wisconsin income or franchise tax must pay the first installment of the tax on or before the 15th day of the fourth month of the corporation's taxable year, except that, if the corporation's taxable year begins in April, the first installment must be paid in the third month of the corporation's taxable year. Under current law, the first installment for all corporations is due on the 15th day of the third month of the corporation's taxable year.

The bill also changes the due date for a partnership, limited liability company, tax-option corporation, estate, or trust (pass-through entity) to file a withholding tax return for amounts withheld from income of the pass-through entity that are distributable to a nonresident partner, member, shareholder, or beneficiary. Under the bill, a pass-through entity's withholding tax return is due on the same date that the pass-through entity's federal income tax return is due.

Under current law, if a pass-through entity underpays estimated withholding tax, the pass-through entity must pay interest on the amount of the underpayment for the period of the underpayment. The bill provides that no interest must be paid if the secretary of revenue determines that because of casualty, disaster, or other unusual circumstances it is not equitable to impose interest.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 71.20 (1) of the statutes is amended to read:

71.20 (1) Every partnership shall furnish to the department a true and accurate statement, on or before ~~April 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 4th month following the close of such fiscal year~~ the date on which the partnership is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code, in such the manner and form and setting forth such the facts as the department deems necessary to enforce this chapter. A partnership that is the owner of a single-owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code shall include that entity's information on the owner's return under this subchapter. The statement shall be subscribed by one of the ~~members~~ partners of the partnership.

SECTION 2. 71.24 (1) of the statutes is amended to read:

71.24 (1) FILING RETURNS. Every corporation, ~~except corporations~~ a corporation all of whose income is exempt from taxation and except as provided in sub. (1m), shall furnish to the department a true and accurate statement, on or before ~~March 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 3rd month following~~

~~the close of such fiscal year and except that returns for less than a full taxable year shall be furnished on or before the date applicable on which the corporation is required to file for federal income taxes tax purposes, not including any extension, under the internal revenue code Internal Revenue Code, in such the manner and form and setting forth such the facts as the department deems necessary to enforce this chapter. Every corporation that is required to furnish a statement under this subsection and that has income that is not taxable under this subchapter shall include with its the corporation's statement a report that identifies each item of its the corporation's nontaxable income. The statement shall be subscribed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, the fiduciary shall subscribe the return. The fact that an individual's name is subscribed on the return shall be prima facie evidence that the individual is authorized to subscribe the return on behalf of the corporation.~~

SECTION 3. 71.24 (1m) of the statutes is amended to read:

71.24 (1m) UNRELATED BUSINESS INCOME STATEMENT. Every corporation subject to a tax on unrelated business income under s. 71.26 (1) (a), if that corporation is required to file for federal income tax purposes, shall furnish to the department of revenue a true and accurate statement on or before the date on ~~or before~~ which it the corporation is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code. The requirements about manner, form, and subscription under sub. (1) apply to statements under this subsection.

SECTION 4. 71.24 (9) (a) of the statutes is amended to read:

71.24 (9) (a) Corporation franchise and income taxes not paid on or before the 15th day of the 3rd month following the close of the taxable year deadline for filing returns described in sub. (1) or (1m) shall be deemed delinquent.

SECTION 5. 71.29 (8) (a) of the statutes is amended to read:

71.29 (8) (a) The ~~3rd~~ 4th month of the taxable year, except that a taxpayer whose taxable year begins in April shall pay the installment in the 3rd month of the taxable year.

SECTION 6. 71.44 (1) (a) of the statutes is amended to read:

71.44 (1) (a) Every corporation, ~~except corporations~~ a corporation all of whose income is exempt from taxation and except as provided in sub. (1m), shall furnish to the department a true and accurate statement, on or before ~~March 15 of each year,~~ except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 3rd month following the close of such fiscal year and except that returns for less than a full taxable year shall be furnished on or before the date applicable on which the corporation is required to file for federal income taxes tax purposes, not including any extension, under the ~~internal revenue code~~ Internal Revenue Code, in ~~such~~ the manner and form and setting forth ~~such~~ the facts as the department deems necessary to enforce this chapter. Every corporation that is required to furnish a statement under this paragraph and that has income that is not taxable under this subchapter shall include with ~~its~~ the corporation's statement a report that identifies each item of ~~its~~ the corporation's nontaxable income. The statement shall be subscribed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, the fiduciary shall subscribe the return. The fact that an individual's name is subscribed

on the return shall be prima facie evidence that the individual is authorized to subscribe the return on behalf of the corporation.

SECTION 7. 71.44 (1m) of the statutes is amended to read:

71.44 **(1m)** UNRELATED BUSINESS INCOME. Every corporation subject to a tax on unrelated business income under s. 71.26 (1) (a), if that corporation is required to file for federal income tax purposes, shall furnish to the department of revenue a true and accurate statement on or before the date on ~~or before~~ which it the corporation is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code. The requirements about manner, form, and subscription under sub. (1) apply to statements under this subsection.

SECTION 8. 71.44 (4) (b) of the statutes is amended to read:

71.44 **(4)** (b) Corporation franchise and income taxes not paid on or before the ~~15th day of the 3rd month following the close of the taxable year~~ deadline for filing returns described in sub. (1) or (1m) shall be deemed delinquent.

SECTION 9. 71.775 (4) (a) (intro.) of the statutes is renumbered 71.775 (4) (a) and amended to read:

71.775 **(4)** (a) Each pass-through entity that is subject to the withholding under sub. (2) shall file an annual return that indicates the withholding amount paid to the state during the pass-through entity's taxable year. The pass-through entity shall file the return with the department ~~no later than:~~ on or before the date on which the pass-through entity is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code.

SECTION 10. 71.775 (4) (a) 1. of the statutes is repealed.

SECTION 11. 71.775 (4) (a) 2. of the statutes is repealed.

SECTION 12. 71.775 (4) (fm) 3. of the statutes is created to read:

71.775 (4) (fm) 3. The secretary of revenue determines that because of casualty, disaster, or other unusual circumstances it is not equitable to impose interest.

SECTION 13. 71.84 (2) (a) of the statutes is amended to read:

71.84 (2) (a) Except as provided in s. 71.29 (7), in the case of any underpayment of estimated tax by a corporation under s. 71.29 or 71.48, there shall be added to the aggregate tax for the taxable year interest at the rate of 12 percent per year on the amount of the underpayment for the period of the underpayment. ~~For corporations, except as provided in par. (b)~~ In this paragraph, “period of the underpayment” means the time period from the due date of the installment until either the 15th day of the 3rd month beginning after the end of the taxable year date on which the corporation is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code or the date of payment, whichever is earlier. If 90 percent of the tax shown on the return is not paid by the 15th day of the 3rd month following the close of the taxable year date on which the corporation is required to file for federal income tax purposes, not including any extension, under the Internal Revenue Code, the difference between that amount and the estimated taxes paid, along with any interest due, shall accrue delinquent interest under s. 71.91 (1) (a).

SECTION 14. 71.84 (2) (c) of the statutes is amended to read:

71.84 (2) (c) If a refund under s. 71.29 (3m) results in an income or franchise tax liability that is greater than the amount of estimated taxes paid ~~in~~ when reduced by the amount of the refund, the taxpayer shall add to the aggregate tax for the taxable year interest at an annual rate of 12 percent on the amount of the unpaid tax liability for the period beginning on the date the refund is issued and ending on either the 15th day of the 3rd month beginning after the end of the taxable year, date on which the taxpayer is required to file for federal income tax purposes, not including

any extension, under the Internal Revenue Code or the date the tax liability is paid, whichever is earlier.

SECTION 9338. Initial applicability; Revenue.

(1) DUE DATES FOR FILING INCOME AND FRANCHISE TAX RETURNS. The treatment of sections 71.20 (1), 71.24 (1), (1m), and (9) (a), 71.29 (8) (a), 71.44 (1) (a), (1m), and (4) (b), 71.775 (4) (a) (intro.), 1., and 2. and (fm) 3., and 71.84 (2) (a) and (c) of the statutes first applies to taxable years beginning on January 1, 2017.

(END)