



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #681

Financial Record Matching Program (DOR -- Tax Administration)

[LFB 2009-11 Budget Summary: Page 556, #3]

CURRENT LAW

The Department of Revenue (DOR) is authorized to levy bank accounts of delinquent taxpayers. A bank levy is an administrative action taken by DOR to collect delinquent tax. When a person does not take steps to voluntarily resolve a tax debt, the Department can send a notice to the person's financial institution to attach to all money in any of the person's accounts. DOR can receive up to the amount indicated on the levy notice.

GOVERNOR

Provide expenditure authority of \$208,900 PR in 2009-10 and \$402,900 PR in 2010-11, and 3.00 PR positions beginning in 2009-10 to implement and administer a financial record matching program for the collection of delinquent state taxes. Under the financial record matching program, financial institutions doing business in Wisconsin, through an agreement with DOR, would provide specified information for each taxpayer who had an account at the institution and was identified as owing delinquent state taxes.

Estimate additional state revenues of \$6,289,000 in 2009-10 and \$12,593,000 in 2010-11 under the provision.

DISCUSSION POINTS

1. When an unpaid or unreported tax is identified, a bill is sent to the taxpayer. If the taxpayer disagrees with the assessment, he or she may pay the full amount without filing an appeal, and consider whether to file a claim of refund within two years. Alternatively, the taxpayer may file an appeal with DOR within 60 days after receiving the notice. If the bill is not paid by the due date

or appealed, the Department considers the tax delinquent when statutory appeal rights have expired. Twelve days after appeal rights have expired on appealable bills, any unpaid or partially paid liabilities are transferred to a collection case assigned to the Compliance Bureau. A Notice of Overdue Tax is sent to the taxpayer indicating that the delinquent tax collection fee has been added to their account, and warning the taxpayer of possible actions that could occur if the liability is not paid. When an assessment is certified as delinquent, a delinquent collection fee is imposed on the account. The delinquent collection fee is equal to 6.5% of the balance or \$35, whichever is greater. Interest at the rate of 18% per year is charged on the balance of tax due.

2. Generally, delinquent tax bills are assigned to DOR's Central Collection Section for administration. Specifically, the following are assigned to the Section: (a) income tax processing bills, audits, and estimated assessments; (b) out-of-state business tax bills; (c) occasional vehicle sales tax bills; (d) business tax registration fee bills; and (e) additional bills on accounts currently assigned to the Section. Many taxpayers respond to the Notice of Overdue Tax by requesting an installment agreement for paying the amount owed. Those who are unable to pay their total delinquent tax liability may petition DOR, at any time during the administrative process, to accept a compromise amount and work out a repayment schedule. Taxpayers who do not respond to the initial notice may be contacted by telephone or requested to attend a hearing to resolve the delinquency. The Central Collection Section revenue agent responsible for a delinquent account can also take involuntary collection actions, usually through wage attachments or through levies on the taxpayer's accounts in financial institutions. If the Central Collection revenue agent is unable to resolve an account within six months, the accounts are referred to the Special Procedures Intensive Collection Effort (ICE) unit. Accounts not resolved in the ICE unit are referred to a collection agency. Accounts to which in-state business tax liabilities have been added are referred to the Field Compliance Section

3. Accounts are immediately transferred to the Field Compliance Section after a collection case is created, if the liabilities are for in-state businesses or if previous liabilities have been referred to the Section. Field revenue agents have the same involuntary collection tools to resolve delinquent accounts as other agents including informal hearings, installment agreements, wage attachments, and levies on assets. The agents make field calls to delinquent taxpayers to arrange for payments or to obtain missing returns. Field Compliance Section revenue agents can also take the following delinquent tax collection actions: (a) filing delinquent tax warrants on an account, which places a lien on any real or personal property owned by the taxpayer in the county of record; (b) garnishments initiated to seize the assets of the taxpayer that are in the hands of a third party; (c) warrant executions initiated to seize property held by the delinquent taxpayer; (d) revocation of sellers permits; (e) holding supplemental hearings before a court commissioner to identify assets that could be used to pay the delinquent liability; and (f) officers of a corporation with responsibility to make tax payments may be found to have personal liability for the debts after investigation.

4. Delinquent tax collections by type of collection action for fiscal years 2004-05 through 2007-08 are shown in the following table. Levies on financial institution accounts are generally responsible for approximately 10% of annual delinquent tax collections.

Delinquent Tax Collections by Action

	<u>2004-05</u>		<u>2005-06</u>		<u>2006-07</u>		<u>2007-08</u>	
	<u>Amount</u>	<u>Percent of Total</u>						
Voluntary Actions								
Field Collections	\$46,901,164	32.6%	\$47,977,746	32.7%	\$47,877,905	33.9%	\$41,783,739	29.8%
Central Collections	43,213,467	30.1	48,710,068	33.2	37,836,115	26.8	43,916,831	31.4
Involuntary Actions								
Wage Certifications	16,302,811	11.3	13,505,634	9.2	16,248,770	11.5	9,160,133	6.5
Levies	15,580,586	10.8	14,752,767	10.0	15,458,904	10.9	13,727,100	9.8
Compromises	3,987,692	2.8	3,747,511	2.6	2,466,962	1.7	2,736,107	2.0
Garnishments	738,055	0.5	929,050	0.6	840,076	0.6	865,013	0.6
Vendor Setoff	495,736	0.3	546,530	0.4	414,896	0.3	972,058	0.7
Unclaimed Property	96,016	0.1	289,556	0.2	138,067	0.1	245,806	0.2
Supplemental Hearings	371,857	0.3	222,625	0.2	89,400	0.1	114,819	0.1
Warrant Executions	88,986	0.1	60,464	0.0	74,490	0.1	51,812	0.0
Probate	552,177	0.4	515,679	0.4	485,248	0.3	127,656	0.1
DWD Overpayments	144,003	0.1	195,086	0.1	0	0.0	0	0.0
State Refund Interceptions	12,007,637	8.4	12,886,238	8.8	13,936,305	9.9	18,558,178	13.3
Federal Refund Interceptions	<u>3,282,595</u>	<u>2.3</u>	<u>2,577,519</u>	<u>1.8</u>	<u>5,422,429</u>	<u>3.8</u>	<u>7,764,023</u>	<u>5.5</u>
Total Collections	\$143,762,782	100.0%	\$146,916,473	100.0%	\$141,289,567	100.0%	\$140,023,322	100.0%

5. Information about taxpayers' financial institutions is obtained from Department records, data sharing agreements with the Department of Workforce Development (DWD) and the Internal Revenue Service (IRS), and the taxpayer. The number and amounts collected from levies on financial institutions from 2004-05 to 2007-08 are shown in the following table.

Delinquent Tax Levies

	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Amount Collected	\$15,580,600	\$14,752,800	\$15,458,900	\$13,727,100
Number of Levies	15,962	17,260	17,382	12,830

6. The financial record matching program is intended to assist DOR in identifying financial institution accounts of delinquent taxpayers. DOR indicates that there are approximately 60,000 delinquent tax accounts, with a balance greater than \$50, that would be targeted. Financial institutions would be required to participate in the program. DOR estimates that about 600 financial institutions could participate.

7. There would be two options available to financial institutions for conducting data matches which would be done at least quarterly:

a. Financial Institution Matching Option. Under this option, DOR would provide to the financial institution, at least quarterly, the names and social security numbers or federal employer identification numbers of delinquent taxpayers. The financial institution would be

required to match this information against all accounts maintained at the financial institution. The financial institution would notify DOR of the name, social security or federal employer identification number, address, account number, account type, and account balance of any person with ownership interest in any account that matched any name or number provided by the Department. The notice would be provided in a manner specified by DOR by rule, or by agreement between the Department and the financial institution.

b. State Matching Option. Under this option, the financial institution would be required to provide to DOR, at least quarterly, the name, social security or federal employer identification number, address, account number, account type, and account balance of all persons who had an ownership interest in all accounts maintained at the financial institution. DOR would match the information provided with its database of delinquent taxpayers. The Department could not disclose or retain information received from the financial institution concerning account holders who were not delinquent taxpayers.

8. DOR would be required to promulgate rules that specified procedures for entering into financial records matching agreements with financial institutions doing business in this state. The information provided under each of the matching options would have to be provided by electronic data exchange in a manner specified by DOR by rule, or by agreement between the Department and the financial institution. If the financial institution requested reimbursement, DOR would be required to reimburse a financial institution for costs associated with participating in the financial record matching program in an amount not to exceed \$125 for each calendar quarter that the institution participated in the program.

A financial institution that failed to provide any information required under the financial records matching options, within 120 days from either the date that the information was due or from the date that the Department requested the information, would be subject to a \$100 penalty for each occurrence of the financial institution's failure to provide the required information. DOR would be authorized to commence civil proceedings to enforce the financial record matching program provisions if a financial institution failed to provide any required information after 120 days from either the date that the information was due, or from the date that the Department requested the information.

9. The administration estimates that the program would generate \$6.5 million in 2009-10 and \$13.0 million in 2010-11 in additional state tax revenues. The financial record matching program would be funded by a newly-created program revenue appropriation. The source of revenue for the appropriation would be delinquent taxes and other debts collected through the program. As noted, expenditure authority of \$208,900 PR in 2009-10 and \$402,900 PR in 2010-11 and 3.0 PR revenue agent positions would be provided to implement and administer the program. Consequently, the program would generate an estimated \$6.3 million in 2009-10 and \$12.6 million in 2010-11 in additional state revenues over and above the costs of implementing the program.

10. The requested positions and related expenditure authority reflect the estimated administrative activities that would be necessary to process over 15,000 new levies each year. These activities would include receiving and reviewing lists of matches, determining if a levy is appropriate, and generating levy notices to the financial institution and taxpayer. After the levy was

issued, staff would monitor the account and provide assistance to the taxpayer. When levies are issued it is also often necessary to communicate directly with the financial institution. The estimate of 3.0 FTEs is based on the projected total hours required for account review, levy generation, taxpayer assistance, bank communications, receiving funds and applying them to the accounts. The estimated \$13.0 million revenues that would be generated is based on DOR projections on the number of accounts that could be allocated for levy and the amount of delinquent taxes that could be collected as a result of the required data exchange and the dedication of three positions to such activities. DOR indicates that if it did not receive and the requested positions, the Department would not be able to process enough accounts to generate the additional \$13.0 million in annual revenues. Existing revenue agent positions could perform the administrative activities, but would not be able to generate 15,000 additional levies, and maintain their current collection efforts.

11. The Department of Children and Families (DCF) currently administers a financial record matching program to collect delinquent child support payments. Under the financial record matching program, financial institutions, in agreement with DCF, must provide specified information for each noncustodial parent who has an account at the institution and is identified as owing past-due child support. There are two options available to financial institutions for conducting data matches, which are done quarterly: (a) DCF provides the institution with information regarding delinquent support obligors (including names and social security numbers), and the financial institution determines whether any delinquent obligors maintain an account; or (b) the financial institution provides DCF with information concerning all accounts and DCF determines whether any support obligor has an account. Financial institutions must be reimbursed for costs they incur by participating in the program, up to \$125 per quarter. The information provided by DCF to financial institutions may only be used for the purpose of matching records; violations are punishable with a fine of \$25 to \$500, imprisonment for 10 days to one year, or both.

The financial record matching program was implemented in September, 2000. DCF indicates that it and the federal Office of Child Support Enforcement currently have data-exchange arrangements with 4,985 financial institutions, both in-state and out-of-state. For the period June, 2006, through June, 2008, 550 account seizures were implemented, yielding past-due support collections of approximately \$1 million. DCF allocated \$158,000 in 2008-09 for a contract for information technology services (information processing, data matching, record keeping, customer service, website maintenance) to administer the program.

12. Other states operate similar financial record matching programs to collect delinquent taxes, including Maryland, Massachusetts, Minnesota, Kentucky, New Jersey, New York, and Indiana.

13. The financial record matching program would require DOR and financial institutions to exchange personal financial information and the social security numbers of taxpayers and customers. Privacy advocates indicate that use of the social security number as a key identifier in databases can lead to identity theft. Collection of data from numerous sources, where that data can be merged, can lead to secondary uses that may violate personal privacy. In recent years, social security numbers of taxpayers, University of Wisconsin faculty and staff, and elderly, disabled, and low-income individuals have been inadvertently printed on mailings or published on website databases.

14. DOR indicates that information can be shared with financial institutions with safeguards as follows:

a. The financial institution sends electronically secured (encrypted) information to DOR. Under a written agreement, DOR performs matching activities, and then destroys any data received from the banks.

b. DOR sends encrypted information to the financial institutions. Under a written agreement, the financial institutions perform the matching activities, then destroy any information received from DOR.

c. If a third party vendor performs the matching activities, DOR and the financial institutions send encrypted information to the vendor. The vendor performs the matching, sends an encrypted file to DOR, and then destroys any information received from DOR and the financial institutions.

15. A financial institution participating in the financial institution matching option and the employees, agents, officers, and directors of the financial institution, could only use any information provided by DOR for the purpose of administering the matching program, and would be subject to the confidentiality provisions of state tax law. Any person violating this provision could be fined not less than \$25 or more than \$500, or imprisoned in the county jail for not less than 10 days or more than one year or both. A financial institution that provided information under either of the data matching options would not be liable to any person for disclosing information to DOR or for any other action that the financial institution took in good faith to comply with the provisions of the financial records matching program

ALTERNATIVES

1. Adopt the Governor's recommendation to provide expenditure authority of \$208,900 PR in 2009-10 and \$402,900 PR in 2010-11, and 3.00 PR positions beginning in 2009-10 to implement and administer a financial record matching program for the collection of delinquent state taxes. Create an annual program revenue appropriation to fund the positions and related administrative costs, with the source of revenue for the appropriation delinquent taxes and other debts collected through the program.

2. Delete the Governor's recommendation.

ALT 2	Change to Bill		
	Revenue	Funding	Positions
GPR	-\$18,882,000	\$0	0.00
PR	<u>0</u>	<u>- 611,800</u>	<u>- 3.00</u>
Total	-\$18,882,000	-\$611,800	- 3.00

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