



2003 ASSEMBLY BILL 927

March 4, 2004 - Introduced by Representatives M. LEHMAN, W. WOOD, GIELOW, KREIBICH, HAHN, MUSSER, GRONEMUS and ALBERS, cosponsored by Senators LASSA and DARLING, by request of Department of Revenue. Referred to Committee on Ways and Means.

1 **AN ACT** *to renumber* 72.23; *to renumber and amend* 77.59 (4) (c); *to amend*
2 50.14 (4), 71.03 (6) (a), 71.03 (8) (b), 71.10 (6) (a), 71.10 (6) (b), 71.10 (6m) (a),
3 71.65 (5) (a) 1., 71.80 (18), 71.88 (2) (b), 73.01 (4) (a), 77.59 (5), 77.61 (14), 78.22
4 (4), 139.03 (2x) (d), 139.05 (2a), 139.315 (4) and 139.38 (5); and *to create* 71.01
5 (7n), 71.10 (6) (e), 71.10 (6m) (c), 71.22 (5m), 71.34 (1m), 71.42 (2m), 72.23 (2),
6 73.13, 78.39 (5d), 78.39 (5m) and 139.75 (9m) of the statutes; **relating to:** the
7 liability of married persons filing a joint income tax return, the payment of the
8 alternate fuel tax and the tobacco products tax, estate tax interest, qualified
9 retirement systems, reducing nondelinquent taxes, extending the time for
10 filing a tax reconciliation report, delivering tax-related documents and related

ASSEMBLY BILL 927

- 1 payments, appeal of redetermination of earned income tax credits, granting
2 rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau**REDUCING TAXES**

Under current law, any taxpayer may petition the Department of Revenue (DOR) to reduce delinquent taxes, including any applicable costs, penalties, and interest. If DOR determines that the taxpayer is unable to pay in full the amount due, based on an examination of the taxpayer under oath, the taxpayer's financial statements, and any other information required by DOR, DOR determines the amount that the taxpayer is able to pay and then enters an order reducing the taxes, costs, penalties, and interest owed by the taxpayer.

If within three years from either the date on which DOR enters the order that reduces the taxpayer's taxes or the date of the final payment according to a payment schedule determined by DOR, whichever is later, DOR determines that the taxpayer has an income or owns property that is sufficient to enable the taxpayer to pay the remainder of the original delinquent taxes, including costs, penalties, and interest, DOR must reopen the order and order the payment in full of such taxes, costs, penalties, and interest.

This bill expands current law so that DOR is authorized to reduce any taxes, costs, penalties, and interest that are due from a taxpayer, regardless of whether the taxes, costs, penalties, and interest are delinquent.

INCOME AND FRANCHISE TAXES

Under current law, spouses that file a joint income tax return are both liable for the payment of any tax related to that return. However, DOR may relieve a person of any tax liability related to a joint return, in a manner specified by the Internal Revenue Code and adopted by this state. Generally, DOR may relieve a person of any tax liability related to a joint return if the person's spouse did not notify the person of any tax liability or understatement of taxes related to the joint return. This bill corrects an outdated reference to the sections of the Internal Revenue Code that relate to a spouse's tax liability for a joint income tax return. The bill also requires a spouse to apply for relief from tax liability within two years from the date on which DOR begins collection activities on the spouse's tax liability or within two years from the effective date of the provision, whichever is later.

Under current law, an employer is required to deduct and withhold state income taxes from an employee's pay and to deposit those taxes with DOR on a quarterly basis. An employer must also file a tax reconciliation report with DOR on an annual basis. Under current law, DOR cannot grant an employer an extension for filing such a report. This bill allows DOR to grant a 30-day extension for filing an annual reconciliation report.

This bill clarifies that a qualified retirement fund for federal income tax purposes is a qualified retirement fund for state income tax purposes.

ASSEMBLY BILL 927**SALES AND USE TAXES**

Under current law, if a seller makes a claim for a refund of sales taxes or use taxes and the claim is honored, the seller is required to pass along the refund and related interest to the buyers and to submit to DOR the portion of the refund that could not be passed on, along with a penalty. Under current law, if a seller receives a sales or use tax refund as the result of an audit, the seller is not required to submit the refund and related interest to the buyers. Also, a seller is not required to submit to the buyers sales or use taxes that are collected erroneously.

This bill requires a seller who receives any refund of sales or use taxes, or who collects sales or use taxes erroneously, to submit such a refund or taxes to the buyer, or to DOR if the buyer cannot be located, within 90 days after receiving a refund or after discovering that the seller has collected taxes erroneously. Any portion of a refund or taxes not submitted to the buyer, or to DOR if the buyer cannot be located, within that 90 days must be submitted to DOR, along with a penalty.

OTHER TAXATION

Under current law, an estate tax that is not paid on the date on which it is due is subject to interest at the rate of 12% a year from the date of the decedent's death. Under the bill, DOR may waive the interest imposed on any additional estate taxes that arise from the discovery of property omitted in the inventory of the estate's total assets or in the original tax determination, if due diligence was exercised in determining the assets.

Under current law, generally, a tax-related document or payment that DOR must receive by a specified date is timely received, if the document or payment is mailed in a properly addressed envelope; the sender pays the postage; the envelope is postmarked on the day that the document or payment is due; and the document or payment is received within five days from the date on which the document or payment is due.

Under this bill, mailing a tax-related document or payment includes using a delivery service that has been approved by the Internal Revenue Service, for federal tax purposes.

Under current law, a person may appeal DOR's redetermination of various tax credits without paying a \$25 filing fee. Under this bill, a person may appeal DOR's redetermination of an earned income tax credit without paying the filing fee.

For further information see the *state and local* 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:

1 **SECTION 1.** 50.14 (4) of the statutes, as affected by 2003 Wisconsin Act 33, is
2 amended to read:

ASSEMBLY BILL 927

1 50.14 (4) Sections 77.59 (1) to ~~(5)~~ (5m), (6) (intro.), (a) and (c) and (7) to (10),
2 77.60 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the
3 taxes under subch. III of ch. 77, apply to the assessment under this section, except
4 that the amount of any assessment collected under s. 77.59 (7) in excess of
5 \$14,300,000 in fiscal year 2003-04, in excess of \$13,800,000 in fiscal year 2004-05,
6 and, beginning July 1, 2005, in excess of 45% in each fiscal year shall be deposited
7 in the Medical Assistance trust fund.

8 **SECTION 2.** 71.01 (7n) of the statutes is created to read:

9 71.01 **(7n)** Notwithstanding sub. (6), a qualified retirement fund for a taxable
10 year for federal income tax purposes is a qualified retirement fund for the taxable
11 year for purposes of this subchapter.

12 **SECTION 3.** 71.03 (6) (a) of the statutes is amended to read:

13 71.03 **(6)** (a) Reports required under this section shall be made on or before
14 April 15, or April 30 if the person files an electronic return, following the close of a
15 year referred to in sub. (2) (a), or if such person's fiscal year is other than the calendar
16 year then on or before the 15th day, or the last day if the person files an electronic
17 return, of the 4th month following the close of such fiscal year, or if the return is for
18 less than a full taxable year on the date applicable for federal income taxes under the
19 ~~internal revenue code~~ Internal Revenue Code, to the department of revenue, in the
20 manner and form prescribed by the department of revenue, whether notified to do
21 so or not. Such persons shall be subject to the same penalties for failure to report as
22 those who receive notice. If the taxpayer is unable to make his or her own return,
23 the return shall be made by a duly authorized agent or by the guardian or other
24 person charged with the care of the person or property of such taxpayer.

25 **SECTION 4.** 71.03 (8) (b) of the statutes is amended to read:

ASSEMBLY BILL 927

1 71.03 (8) (b) The final payment of taxes on incomes of persons other than
2 corporations who file on a calendar year basis shall be made on or before April 15,
3 or April 30 if the person files an electronic return, following the close of the calendar
4 year, except for persons electing to have the department compute their tax under sub.
5 (4). If the return of a person other than a corporation is made on the basis of a fiscal
6 year, such final payment shall be made on or before the 15th day, or the last day if
7 the person files an electronic return, of the 4th month following the close of such fiscal
8 year, except for persons electing to have the department compute their tax under sub.
9 (4).

10 **SECTION 5.** 71.10 (6) (a) of the statutes is amended to read:

11 71.10 (6) (a) *Joint returns.* Persons filing a joint return are jointly and severally
12 liable for the tax, interest, penalties, fees, additions to tax and additional
13 assessments under this chapter applicable to the return. A person shall be relieved
14 of liability in regard to a joint return in the manner specified in section ~~6013 (e)~~ 6015
15 (a) to (d) and (f) of the internal revenue code, notwithstanding the amount or
16 percentage of the understatement Internal Revenue Code.

17 **SECTION 6.** 71.10 (6) (b) of the statutes is amended to read:

18 71.10 (6) (b) *Separate returns.* A spouse filing a separate return may be
19 relieved of liability for the tax, interest, penalties, fees, additions to tax and
20 additional assessments under this chapter ~~with regard to unreported marital~~
21 ~~property income~~ in the manner specified in section 66 (c) of the ~~internal revenue code~~
22 Internal Revenue Code. The department may not apply ch. 766 in assessing a
23 taxpayer with respect to marital property income the taxpayer did not report if that
24 taxpayer failed to notify the taxpayer's spouse about the amount and nature of the
25 income before the due date, including extensions, for filing the return for the taxable

ASSEMBLY BILL 927

1 year in which the income was derived. The department shall include all of that
2 marital property income in the gross income of the taxpayer and exclude all of that
3 marital property income from the gross income of the taxpayer's spouse.

4 **SECTION 7.** 71.10 (6) (e) of the statutes is created to read:

5 71.10 (6) (e) *Application for relief.* A person who seeks relief from liability
6 under par. (a) or (b) shall apply for relief with the department, on a form prescribed
7 by the department, within 2 years after the date on which the department first
8 begins collection activities after the effective date of this paragraph [revisor
9 inserts date].

10 **SECTION 8.** 71.10 (6m) (a) of the statutes is amended to read:

11 71.10 (6m) (a) A formerly married or remarried person filing a return for a
12 period during which the person was married may be relieved of liability for the tax,
13 interest, penalties, fees, additions to tax and additional assessments under this
14 chapter ~~for unreported marital property income~~ from that period as if the person
15 were a spouse under section 66 (c) of the ~~internal revenue code~~ Internal Revenue
16 Code. The department may not apply ch. 766 in assessing the former spouse of the
17 person with respect to marital property income that the former spouse did not report
18 if that former spouse failed to notify the person about the amount and nature of the
19 income before the due date, including extensions, for filing the return for the taxable
20 year during which the income was derived. The department shall include all of that
21 marital property income in the gross income of the former spouse and exclude all of
22 that marital property income from the gross income of the person.

23 **SECTION 9.** 71.10 (6m) (c) of the statutes is created to read:

24 71.10 (6m) (c) A person who seeks relief from liability under par. (a) shall apply
25 for relief with the department as provided under sub. (6) (e).

ASSEMBLY BILL 927

1 **SECTION 10.** 71.22 (5m) of the statutes is created to read:

2 71.22 **(5m)** Notwithstanding subs. (4) and (4m), a qualified retirement fund for
3 a taxable year for federal income tax purposes is a qualified retirement fund for the
4 taxable year for purposes of this subchapter.

5 **SECTION 11.** 71.34 (1m) of the statutes is created to read:

6 71.34 **(1m)** Notwithstanding sub. (1g), a qualified retirement fund for a taxable
7 year for federal income tax purposes is a qualified retirement fund for the taxable
8 year for purposes of this subchapter.

9 **SECTION 12.** 71.42 (2m) of the statutes is created to read:

10 71.42 **(2m)** Notwithstanding sub. (2), a qualified retirement fund for a taxable
11 year for federal income tax purposes is a qualified retirement fund for the taxable
12 year for purposes of this subchapter.

13 **SECTION 13.** 71.65 (5) (a) 1. of the statutes is amended to read:

14 71.65 **(5)** (a) 1. Thirty days for filing a wage statement under sub. (1) or an
15 annual reconciliation report under sub. (3) (a) or (d).

16 **SECTION 14.** 71.80 (18) of the statutes is amended to read:

17 71.80 **(18)** **TIMELY FILING DEFINED.** Documents and payments required or
18 permitted by this chapter that are mailed shall be considered furnished, reported,
19 filed or made on time, if mailed in a properly addressed envelope, with postage duly
20 prepaid, which envelope is postmarked, or marked or recorded electronically as
21 provided under section 7502 (f) (2) (c) of the Internal Revenue Code, before midnight
22 of the date prescribed for such furnishing, reporting, filing or making, provided such
23 document or payment is actually received by the department or at the destination
24 that the department or the department of administration prescribes within 5 days
25 of such prescribed date. Documents and payments that are not mailed are timely if

ASSEMBLY BILL 927

1 they are received on or before the due date by the department or at the destination
2 that the department or the department of administration prescribes. For purposes
3 of this subsection, “mailed” includes delivery by a delivery service designated under
4 section 7502 (f) of the Internal Revenue Code.

5 **SECTION 15.** 71.88 (2) (b) of the statutes is amended to read:

6 71.88 (2) (b) *Appeal of department’s redetermination of credits.* Any person
7 aggrieved by the department of revenue’s redetermination of a credit under s. 71.07
8 (3m) ~~or~~, (6), or (9e), 71.28 (1) or (2m) or 71.47 (1) or (2m) or subch. VIII or IX, except
9 when the denial is based upon late filing of claim for credit or is based upon a
10 redetermination under s. 71.55 (8) of rent constituting property taxes accrued as at
11 arm’s length, may appeal the redetermination to the tax appeals commission by
12 filing a petition with the commission within 60 days after the redetermination, as
13 provided under s. 73.01 (5) with respect to income or franchise tax cases, and review
14 of the commission’s decision may be had under s. 73.015. For appeals brought under
15 this paragraph, the filing fee required under s. 73.01 (5) (a) does not apply.

16 **SECTION 16.** 72.23 of the statutes is renumbered 72.23 (1).

17 **SECTION 17.** 72.23 (2) of the statutes is created to read:

18 72.23 (2) The department or circuit court may waive interest on any additional
19 tax arising from the discovery of property omitted in the inventory of total assets or
20 in the original tax determination, if due diligence was exercised in determining the
21 assets.

22 **SECTION 18.** 73.01 (4) (a) of the statutes is amended to read:

23 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
24 the commission shall be the final authority for the hearing and determination of all
25 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.

ASSEMBLY BILL 927

1 70.38 (4) (a), 70.397, 70.64, and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4)
2 (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (5m) and (6) (b), 78.01, 78.22, 78.40, 78.555,
3 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405, and 341.45,
4 subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever with respect to a pending
5 appeal there is filed with the commission a stipulation signed by the department of
6 revenue and the adverse party, under s. 73.03 (25), or the department of
7 transportation and the adverse party agreeing to an affirmance, modification, or
8 reversal of the department of revenue's or department of transportation's position
9 with respect to some or all of the issues raised in the appeal, the commission shall
10 enter an order affirming or modifying in whole or in part, or canceling the assessment
11 appealed from, or allowing in whole or in part or denying the petitioner's refund
12 claim, as the case may be, pursuant to and in accordance with the stipulation filed.
13 No responsibility shall devolve upon the commission, respecting the signing of an
14 order of dismissal as to any pending appeal settled by the department of revenue or
15 the department of transportation without the approval of the commission.

16 **SECTION 19.** 73.13 of the statutes is created to read:

17 **73.13 Reducing nondelinquent taxes.** (1) In this section:

18 (a) "Department" means the department of revenue.

19 (b) "Tax" means an amount that is owed to this state under s. 66.0615 (1m) (f)
20 3. or ch. 71, 72, 76, 77, 78, or 139, and that is not delinquent.

21 (2) (a) A taxpayer may petition the department to reduce the taxpayer's taxes,
22 including the costs, penalties, and interest related to the taxpayer's taxes. The
23 petition shall set forth a sworn statement of the taxpayer and shall be in a form that
24 the department prescribes. The department may examine the taxpayer under oath
25 about the petition and may require the taxpayer to provide the department with

ASSEMBLY BILL 927

1 financial statements and any other information requested by the department that
2 is related to the petition.

3 (b) If the department determines that the taxpayer is unable to pay the taxes,
4 costs, penalties, and interest in full, the department shall determine the amount that
5 the taxpayer is able to pay and shall enter an order reducing the taxes in accordance
6 with the department's determination. The order shall provide either that the order
7 is effective only if the reduced taxes are paid in full within 10 days from the date on
8 which the order is issued or that the order is effective only if the reduced taxes are
9 paid according to a payment schedule that the department determines. The
10 department or its collection agents, upon receipt of the order, shall accept payment
11 in accordance with the order. Upon payment of the reduced taxes, the department
12 shall credit the unpaid portion of the principal amount of the taxes and record the
13 unpaid amount of costs, penalties, and interest accrued to the date of the order.

14 (c) If within 3 years from either the date of the order under par. (b) or the date
15 of the final payment according to a payment schedule as determined under par. (b),
16 whichever is later, the department ascertains that the taxpayer has an income or
17 owns property sufficient to enable the taxpayer to pay the unpaid portion of the
18 principal amount of the taxes due, including the costs, penalties, and interest
19 recorded under par. (b), the department shall reopen the order under par. (b) and
20 order the taxpayer to pay in full the unpaid portion of the principal amount of the
21 taxes due, including the costs, penalties, and interest recorded under par. (b). Before
22 the entry of the order for payment, the department shall send a written notice to the
23 taxpayer, by certified mail, advising the taxpayer of the department's intention to
24 reopen the order under par. (b) and fixing a time and place for the appearance of the
25 taxpayer, if the taxpayer desires a hearing. If the department determines that the

ASSEMBLY BILL 927

1 taxpayer is able to pay the unpaid portion of the principal amount of the taxes due,
2 including the costs, penalties, and interest recorded under par. (b), the department
3 shall enter the order for payment in full. The unpaid portion of the principal amount
4 of the taxes due, including the costs, penalties, and interest recorded under par. (b),
5 shall be due and payable immediately upon entry of the order for payment in full and
6 shall thereafter be subject to the interest under s. 71.82 (2), as that subsection
7 applies to delinquent income and franchise taxes under s. 71.82, and to the
8 delinquent account fee under s. 73.03 (33m).

9 **SECTION 20.** 77.59 (4) (c) of the statutes is renumbered 77.59 (5m) and amended
10 to read:

11 77.59 (5m) A seller who receives a refund ~~under par. (a) or (b)~~ of taxes that the
12 seller has collected from buyers, who collects amounts as taxes erroneously from
13 buyers, or who is entitled to a refund that is offset under sub. (5), shall return submit
14 the taxes and related interest to the buyers from whom the taxes were collected. The,
15 or to the department if the seller cannot locate the buyers, within 90 days after the
16 date of the refund, after the date of the offset, or after discovering that the seller has
17 collected taxes erroneously from the buyers. If the seller does not submit the taxes
18 and related interest to the department or the buyers within that period, the seller
19 shall return submit to the department any part of a refund or taxes that the seller
20 does not return submit to a buyer or to the department along with a penalty of 25%
21 of the amount not returned or submitted or, in the case of fraud, a penalty equal to
22 the amount not returned in the case of fraud submitted. A person who collects
23 amounts as taxes erroneously from buyers for a real property construction activity
24 or nontaxable service may reduce the taxes and interest that he or she is required
25 to submit to the buyer or to the department under this subsection for that activity

ASSEMBLY BILL 927

1 or service by the amount of tax and interest subsequently due and paid on the sale
2 of or the storage, use, or other consumption of tangible personal property that is used
3 by the person in that activity or service and transferred to the buyer.

4 **SECTION 21.** 77.59 (5) of the statutes is amended to read:

5 77.59 (5) The department may offset the amount of any refund for a period,
6 together with interest on the refund, against deficiencies for another period, and
7 against penalties and interest on the deficiencies, or against any amount of whatever
8 kind, due and owing on the books of the department from the person claiming who
9 is entitled to the refund. If the refund is to be paid to a buyer, the department may
10 also set off amounts in the manner in which it sets off income tax and franchise tax
11 refunds under s. 71.93 and may set off amounts for child support or maintenance or
12 both in the manner in which it sets off income taxes under ss. 49.855 and 71.93 (3),
13 (6) and (7).

14 **SECTION 22.** 77.61 (14) of the statutes is amended to read:

15 77.61 (14) Documents and payments required or permitted under this
16 subchapter that are mailed are timely furnished, filed or made if they are mailed in
17 a properly addressed envelope with the postage duly prepaid, if the envelope is
18 postmarked, or marked or recorded electronically as provided under section 7502 (f)
19 (2) (c) of the Internal Revenue Code, before midnight of the due date and if the
20 document or payment is received by the department, or at the destination that the
21 department prescribes, within 5 days after the prescribed date. Documents and
22 payments that are not mailed are timely if they are received on or before the due date
23 by the department or at the destination that the department designates. For
24 purposes of this subsection, "mailed" includes delivery by a delivery service
25 designated under section 7502 (f) of the Internal Revenue Code.

ASSEMBLY BILL 927

1 **SECTION 23.** 78.22 (4) of the statutes is amended to read:

2 78.22 (4) LATE FILING FEE. Any person who fails to file a motor vehicle fuel floor
3 tax return when due shall pay a late filing fee of \$10. A return that is mailed is filed
4 in time if it is mailed in a properly addressed envelope with 1st-class postage duly
5 prepaid and the envelope is officially postmarked, or marked or recorded
6 electronically as provided under section 7502 (f) (2) (c) of the Internal Revenue Code,
7 on the date due and the return is actually received by the department or at the
8 destination that the department prescribes within 5 days of the due date. A return
9 that is not mailed is timely if it is received on or before the due date by the department
10 or at the destination that the department prescribes. For purposes of this subsection,
11 “mailed” includes delivery by a delivery service designated under section 7502 (f) of
12 the Internal Revenue Code.

13 **SECTION 24.** 78.39 (5d) of the statutes is created to read:

14 78.39 (5d) “Pay” has the meaning given in s. 78.005 (13b).

15 **SECTION 25.** 78.39 (5m) of the statutes is created to read:

16 78.39 (5m) “Sign” has the meaning given in s. 78.005 (13r).

17 **SECTION 26.** 139.03 (2x) (d) of the statutes is amended to read:

18 139.03 (2x) (d) *Late filing fee.* Any person who fails to file a floor tax return
19 when due shall pay a late filing fee of \$10. A return that is mailed shall be considered
20 filed in time if it is mailed in a properly addressed envelope with 1st-class postage
21 duly prepaid, if the envelope is officially postmarked, or marked or recorded
22 electronically as provided under section 7502 (f) (2) (c) of the Internal Revenue Code,
23 on the date due and if the return is actually received by the department or at the
24 destination that the department prescribes within 5 days of the due date. A return
25 that is not mailed is timely if it is received on or before the due date by the department

ASSEMBLY BILL 927

1 or at the destination that the department prescribes. For purposes of this paragraph,
2 “mailed” includes delivery by a delivery service designated under section 7502 (f) of
3 the Internal Revenue Code.

4 **SECTION 27.** 139.05 (2a) of the statutes is amended to read:

5 139.05 (2a) The payments and returns under subs. (1) and (2) that are mailed
6 are furnished, filed or made on time, and payments therein referred to are timely, if
7 mailed in a properly addressed envelope, with ~~first~~ class postage duly prepaid, which
8 envelope is officially postmarked, or marked or recorded electronically as provided
9 under section 7502 (f) (2) (c) of the Internal Revenue Code, before midnight on the
10 date prescribed for such furnishing, filing or making of such payment, provided such
11 statement, return or payment is actually received by the secretary of revenue or at
12 the destination that the department prescribes within 5 days of the prescribed date.
13 Payments and returns that are not mailed are timely if they are received on or before
14 the due date by the department or at the destination that the department prescribes.
15 For purposes of this subsection, “mailed” includes delivery by a delivery service
16 designated under section 7502 (f) of the Internal Revenue Code.

17 **SECTION 28.** 139.315 (4) of the statutes is amended to read:

18 139.315 (4) LATE FILING FEE. Any person who fails to file a cigarette inventory
19 tax return when due shall pay a late filing fee of \$10. A return that is mailed is timely
20 if it is mailed in a properly addressed envelope with ~~1st~~ class postage prepaid, if the
21 envelope is postmarked, or marked or recorded electronically as provided under
22 section 7502 (f) (2) (c) of the Internal Revenue Code, on the due date and if the return
23 is actually received by the department or at the destination that the department
24 prescribes within 5 days of the due date. A return that is not mailed is timely if it
25 is received on or before the due date by the department or at the destination that the

ASSEMBLY BILL 927

1 department prescribes. For purposes of this subsection, “mailed” includes delivery
2 by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

3 **SECTION 29.** 139.38 (5) of the statutes is amended to read:

4 139.38 (5) If any permittee fails to file a report when due the permittee shall
5 be required to pay a late filing fee of \$10. A report that is mailed is filed in time if
6 it is mailed in a properly addressed envelope with ~~first class~~ postage duly prepaid,
7 which envelope is officially postmarked, or marked or recorded electronically as
8 provided under section 7502 (f) (2) (c) of the Internal Revenue Code, on the date due,
9 and if the report is actually received by the secretary or at the destination that the
10 department prescribes within 5 days of the due date. A report that is not mailed is
11 timely if it is received on or before the due date by the secretary or at the destination
12 that the department prescribes. For purposes of this subsection, “mailed” includes
13 delivery by a delivery service designated under section 7502 (f) of the Internal
14 Revenue Code.

15 **SECTION 30.** 139.75 (9m) of the statutes is created to read:

16 139.75 (9m) “Sign” has the meaning given in s. 139.01 (9m).

17 **SECTION 31. Initial applicability.**

18 (1) REFUNDS AND TAXES COLLECTED ERRONEOUSLY. The treatment of sections 50.14
19 (4), 73.01 (4) (a), and 77.59 (4) (c) and (5) of the statutes first applies to notices of
20 refunds or notices of amounts due dated, offsets taken, and the discovery of amounts
21 collected erroneously as taxes on the effective date of this subsection even if the
22 notices, offsets, and amounts relate to sales that occurred after August 31, 1994.

23 (2) MARRIED PERSONS' TAX LIABILITY. The treatment of section 71.10 (6) (a) and
24 (b) and (6m) (a) of the statutes first applies to tax liability that arises on the effective
25 date of this subsection or that remains unpaid on the effective date of this subsection.

ASSEMBLY BILL 927

1 (3) RECONCILIATION REPORTS. The treatment of section 71.65 (5) (a) 1. of the
2 statutes first applies to reconciliation reports that are due on January 31, 2004.

3 (4) INCOME TAX FILING DEADLINES FOR ELECTRONIC RETURNS. The treatment of
4 section 71.03 (6) (a) and (8) (b) of the statutes takes effect only if the secretary of
5 revenue issues a written certification to the governor that the federal government
6 has extended the income tax filing deadline for electronically filed individual income
7 tax returns in a way that is similar to the changes made by SECTIONS 3 and 4 of this
8 act.

9 (5) APPEAL OF REDETERMINATION. The treatment of section 71.88 (2) (b) of the
10 statutes first applies to appeals filed on the effective date of this subsection.

11

(END)