



2017 SENATE BILL 2

January 13, 2017 - Introduced by Senators MARKLEIN, KAPENGA, LEMAHIEU, COWLES and RINGHAND, cosponsored by Representatives KOOYENGA, STEFFEN, TITTL, BERNIER, HORLACHER and KATSMA. Referred to Committee on Revenue, Financial Institutions and Rural Issues.

1 **AN ACT to repeal** 71.775 (4) (a) 1. and 71.775 (4) (a) 2.; **to renumber and amend**
2 71.775 (4) (a) (intro.); **to amend** 71.20 (1), 71.24 (1), 71.24 (9) (a), 71.29 (8) (a),
3 71.44 (1) (a), 71.44 (4) (b), 71.84 (2) (a) and 71.84 (2) (c); and **to create** 71.775
4 (4) (fm) 3. of the statutes; **relating to:** due dates for filing income and franchise
5 tax returns, paying estimated income and franchise tax installment payments,
6 and filing withholding tax returns.

Analysis by the Legislative Reference Bureau

This bill changes the due dates for certain entities to file Wisconsin income or franchise tax returns, to pay the first installment of estimated income and franchise tax, and to file withholding tax returns.

Under the federal Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, the due dates for certain entities to file federal income tax returns were changed to the following:

1. For taxable years beginning after December 31, 2015, for a partnership, limited liability company, or tax-option corporation, March 15 or the 15th day of the third month following the close of the entity's fiscal year.

2. For taxable years beginning after December 31, 2015, for a corporation other than a tax-option corporation, except for a corporation that has a taxable year ending on June 30, April 15 or the 15th day of the fourth month following the close of the corporation's fiscal year.

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3. For taxable years beginning after December 31, 2015, and ending before January 1, 2024, for a corporation, other than a tax-option corporation, that has a taxable year ending on June 30, the 15th day of the third month following the close of the corporation's fiscal year.

4. For taxable years beginning after December 31, 2025, for a corporation, other than a tax-option corporation, that has a taxable year ending on June 30, the 15th day of the fourth month following the close of the corporation's fiscal year.

The bill amends the due dates under Wisconsin law for those entities to file state income and franchise tax returns to conform to the federal income tax return filing due dates.

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 ends in March, 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. The bill changes that due date to be the same as the due date for the pass-through entity to file its federal income tax return.

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:

1 **SECTION 1.** 71.20 (1) of the statutes is amended to read:
2 71.20 (1) Every partnership shall furnish to the department a true and
3 accurate statement, on or before ~~April 15 of each year, except that returns for fiscal~~
4 ~~years ending on some other date than December 31 shall be furnished on or before~~
5 ~~the 15th day of the 4th month following the close of such fiscal year~~ the date on which
6 the partnership is required to file for federal income tax purposes under the Internal

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1 Revenue Code, in ~~such~~ the manner and form and setting forth ~~such~~ the facts as the
2 department deems necessary to enforce this chapter. A partnership that is the owner
3 of a single-owner entity that is disregarded as a separate entity under section 7701
4 of the Internal Revenue Code shall include that entity's information on the owner's
5 return under this subchapter. The statement shall be subscribed by one of the
6 ~~members~~ partners of the partnership.

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

8 71.24 (1) FILING RETURNS. Every corporation, ~~except corporations~~ a corporation
9 all of whose income is exempt from taxation and except as provided in sub. (1m), shall
10 furnish to the department a true and accurate statement, on or before ~~March 15 of~~
11 ~~each year, except that returns for fiscal years ending on some other date than~~
12 ~~December 31 shall be furnished on or before the 15th day of the 3rd month following~~
13 ~~the close of such fiscal year and except that returns for less than a full taxable year~~
14 ~~shall be furnished on or before the date applicable~~ on which the corporation is
15 required to file for federal income taxes tax purposes under the ~~internal revenue code~~
16 Internal Revenue Code, in ~~such~~ the manner and form and setting forth ~~such~~ the facts
17 as the department deems necessary to enforce this chapter. Every corporation that
18 is required to furnish a statement under this subsection and that has income that
19 is not taxable under this subchapter shall include with its the corporation's
20 statement a report that identifies each item of its the corporation's nontaxable
21 income. The statement shall be subscribed by the president, vice president,
22 treasurer, assistant treasurer, chief accounting officer, or any other officer duly
23 authorized so to act. In the case of a return made for a corporation by a fiduciary, the
24 fiduciary shall subscribe the return. The fact that an individual's name is subscribed

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

3 **SECTION 3.** 71.24 (9) (a) of the statutes is amended to read:

4 71.24 **(9)** (a) Corporation franchise and income taxes not paid on or before the
5 ~~15th day of the 3rd month following the close of the taxable year~~ deadline for filing
6 returns described in sub. (1) or (1m) shall be deemed delinquent.

7 **SECTION 4.** 71.29 (8) (a) of the statutes is amended to read:

8 71.29 **(8)** (a) The ~~3rd~~ 4th month of the taxable year, except that a taxpayer
9 whose taxable year ends in March shall pay the installment in the 3rd month of the
10 taxable year.

11 **SECTION 5.** 71.44 (1) (a) of the statutes is amended to read:

12 71.44 **(1)** (a) Every corporation, ~~except corporations~~ a corporation all of whose
13 income is exempt from taxation and except as provided in sub. (1m), shall furnish to
14 the department a true and accurate statement, on or before ~~March 15~~ of each year,
15 ~~except that returns for fiscal years ending on some other date than December 31 shall~~
16 ~~be furnished on or before the 15th day of the 3rd month following the close of such~~
17 ~~fiscal year and except that returns for less than a full taxable year shall be furnished~~
18 ~~on or before the date applicable~~ on which the corporation is required to file for federal
19 income taxes tax purposes under the ~~internal revenue code~~ Internal Revenue Code,
20 in ~~such~~ the manner and form and setting forth such the facts as the department
21 deems necessary to enforce this chapter. Every corporation that is required to
22 furnish a statement under this paragraph and that has income that is not taxable
23 under this subchapter shall include with its the corporation's statement a report that
24 identifies each item of its the corporation's nontaxable income. The statement shall
25 be subscribed by the president, vice president, treasurer, assistant treasurer, chief

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1 accounting officer, or any other officer duly authorized so to act. In the case of a
2 return made for a corporation by a fiduciary, the fiduciary shall subscribe the return.
3 The fact that an individual's name is subscribed on the return shall be prima facie
4 evidence that the individual is authorized to subscribe the return on behalf of the
5 corporation.

6 **SECTION 6.** 71.44 (4) (b) of the statutes is amended to read:

7 71.44 (4) (b) Corporation franchise and income taxes not paid on or before the
8 15th day of the 3rd month following the close of the taxable year deadline for filing
9 returns described in sub. (1) or (1m) shall be deemed delinquent.

10 **SECTION 7.** 71.775 (4) (a) (intro.) of the statutes is renumbered 71.775 (4) (a)
11 and amended to read:

12 71.775 (4) (a) Each pass-through entity that is subject to the withholding
13 under sub. (2) shall file an annual return that indicates the withholding amount paid
14 to the state during the pass-through entity's taxable year. The pass-through entity
15 shall file the return with the department ~~no later than:~~ on or before the date on which
16 the pass-through entity is required to file for federal income tax purposes under the
17 Internal Revenue Code.

18 **SECTION 8.** 71.775 (4) (a) 1. of the statutes is repealed.

19 **SECTION 9.** 71.775 (4) (a) 2. of the statutes is repealed.

20 **SECTION 10.** 71.775 (4) (fm) 3. of the statutes is created to read:

21 71.775 (4) (fm) 3. The secretary of revenue determines that because of casualty,
22 disaster, or other unusual circumstances it is not equitable to impose interest.

23 **SECTION 11.** 71.84 (2) (a) of the statutes is amended to read:

24 71.84 (2) (a) Except as provided in s. 71.29 (7), in the case of any underpayment
25 of estimated tax by a corporation under s. 71.29 or 71.48, there shall be added to the

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1 aggregate tax for the taxable year interest at the rate of 12 percent per year on the
2 amount of the underpayment for the period of the underpayment. ~~For corporations,~~
3 ~~except as provided in par. (b)~~ In this paragraph, “period of the underpayment” means
4 the time period from the due date of the installment until either the 15th day of the
5 ~~3rd month beginning after the end of the taxable year~~ date on which the corporation
6 is required to file for federal income tax purposes under the Internal Revenue Code
7 or the date of payment, whichever is earlier. If 90 percent of the tax shown on the
8 return is not paid by the 15th day of the 3rd month following the close of the taxable
9 year date on which the corporation is required to file for federal income tax purposes
10 under the Internal Revenue Code, the difference between that amount and the
11 estimated taxes paid, along with any interest due, shall accrue delinquent interest
12 under s. 71.91 (1) (a).

13 **SECTION 12.** 71.84 (2) (c) of the statutes is amended to read:

14 71.84 (2) (c) If a refund under s. 71.29 (3m) results in an income or franchise
15 tax liability that is greater than the amount of estimated taxes paid ~~in~~ when reduced
16 by the amount of the refund, the taxpayer shall add to the aggregate tax for the
17 taxable year interest at an annual rate of 12 percent on the amount of the unpaid tax
18 liability for the period beginning on the date the refund is issued and ending on either
19 ~~the 15th day of the 3rd month beginning after the end of the taxable year,~~ date on
20 which the taxpayer is required to file for federal income tax purposes under the
21 Internal Revenue Code or the date the tax liability is paid, whichever is earlier.

22 **SECTION 13. Initial applicability.**

