



2009 SENATE BILL 444

January 7, 2010 - Introduced by Senators HANSEN and TAYLOR, cosponsored by Representatives PASCH, TURNER and ZEPNICK. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1 **AN ACT** *to amend* 71.75 (2); and *to create* 71.75 (11) of the statutes; **relating**
2 **to:** extending the time period to claim a refund for an individual who is affected
3 by a period of financial disability.

Analysis by the Legislative Reference Bureau

Generally under current law, an individual may file a claim for an income tax refund within four years of the unextended date on which the tax return was due. Under this bill, the four-year limitation period for claiming a refund does not apply to a period of financial disability, which is a medically determinable physical or mental impairment that prevents an individual from managing his or her financial affairs. Federal law currently contains a similar provision for a period of financial disability.

Under the bill, if an individual who is affected by a period of financial disability files with his or her refund claim the required statement from his or her physician, and a personal statement specifying that no other individual, such as a spouse, guardian, or agent, was able to act on the individual's behalf in financial matters, the Department of Revenue must pay the refund to which the individual would otherwise be entitled. The affected individual must, however, file his or her claim and statements within four years of the end of the period of financial disability. If another individual such as a spouse, guardian, or agent is able to act in financial matters on behalf of the affected individual for a period of less than four years, the affected individual may still claim a period of financial disability.

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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.** 71.75 (2) of the statutes is amended to read:

2 71.75 (2) With respect to income taxes and franchise taxes, except as otherwise
3 provided in subs. (5) and, (9), and (11), and ss. 71.30 (4) and 71.77 (5) and (7) (b),
4 refunds may be made if the claim therefor is filed within 4 years of the unextended
5 date under this section on which the tax return was due.

6 **SECTION 2.** 71.75 (11) of the statutes is created to read:

7 71.75 (11) (a) 1. With regard to an individual, and subject to subd. 2., the 4-year
8 limitation period described in sub. (2) does not apply during a period of financial
9 disability, as described in par. (b). If an individual who claims a period of financial
10 disability submits to the department with his or her refund claim the statements
11 under pars. (c) and (d), the department shall pay the refund if it otherwise would
12 have been paid, provided that the individual submits his or her claim and statements
13 within 4 years of the end of his or her period of financial disability.

14 2. A period of financial disability may not apply to an individual for any period
15 of time during which another individual, such as the individual's spouse, guardian,
16 or agent acting under a durable power of attorney, is authorized to act on the
17 individual's behalf in financial matters. If another individual is authorized to act in
18 financial matters, on behalf of an individual who would otherwise be affected by a
19 period of financial disability, for a period of less than 4 years, the affected individual
20 may claim a period of financial disability under subd. 1.

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1 (b) A period of financial disability may be claimed by an individual who is not
2 able to manage his or her financial affairs because of a medically determinable
3 physical or mental impairment to which at least one of the following applies:

4 1. The individual's physician states in writing that the condition has lasted, or
5 is expected to last, continuously for a period of at least 12 months.

6 2. The individual's physician states in writing that he or she expects the
7 individual's condition to result in the individual's death.

8 (c) A written statement signed by a physician who is qualified to make a
9 determination described in par. (b) shall include at least all of the following:

10 1. The name and a description of the individual's physical or mental
11 impairment.

12 2. The physician's medical opinion that the individual's impairment prevented
13 the individual from managing his or her financial affairs.

14 3. The physician's medical opinion that the individual's impairment was or can
15 be expected to result in death, or that it has lasted, or can be expected to last, for a
16 continuous period of at least 12 months.

17 4. To the best of the physician's knowledge, the specific time period during
18 which the individual was prevented by his or her physical or mental impairment
19 from managing the individual's financial affairs.

20 (d) A written statement signed by the individual who requests a refund and
21 claims a period of financial disability shall specify that no other individual was
22 authorized to act on the individual's behalf in financial matters during the period
23 described in par. (c) 4. or, if another individual was so authorized to act on the
24 individual's behalf in financial matters during the period described in par. (c) 4., the
25 specific dates during which such authorization was in effect.

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SECTION 3

1 **SECTION 3. Initial applicability.**

2 (1) This act first applies to a period of financial disability that is in effect on the
3 effective date of this subsection.

4 (END)