

1969 Assembly Bill 216

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**CHAPTER 211, LAWS OF 1969**

AN ACT to renumber and amend 71.13 (1); to amend 71.09 (5), 71.10 (5), 71.12 (2), 71.20 (5) (c), 139.05 (6), 139.07 and 139.32 (7); and to create 71.13 (1) (b) of the statutes, relating to the rate and computation of interest on taxes and on tax refund, and granting rule-making power.

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

SECTION 1. 71.09 (5) of the statutes is amended to read:

71.09 (5) (a) In assessing taxes interest shall be added to such taxes at ~~5%~~ 6% per annum from the date on which such taxes if originally assessed would have become delinquent if unpaid, to the date on which such taxes when subsequently assessed will become delinquent if unpaid.

(b) Except as otherwise specifically provided, in crediting overpayments of income and surtaxes against underpayments or against taxes to be subsequently collected and in certifying refunds of such taxes interest shall be added at the rate of ~~5 per cent~~ 6% per annum from the date on which such taxes when assessed would have become delinquent if unpaid to the date on which such overpayment was certified on the refund rolls except that if any overpayment of tax is certified on a refund roll within

90 days after the last date prescribed for filing the return of such tax or 90 days after the date of actual filing of the return of such tax, whichever occurs later, no interest shall be allowed on such overpayment. For purposes of this section the return of such tax shall not be deemed actually filed by an employe unless and until he has included the written statement required to be filed by him under s. 71.10 (8). However when any part of a tax paid on an estimate of income, whether paid in connection with a tentative return or not, is refunded or credited to a taxpayer, such refund or credit shall not draw interest. ~~This provision shall apply to all such payments made in the calendar year 1960 and thereafter.~~

SECTION 2. 71.10 (5) of the statutes is amended to read:

71.10 (5) (a) In the case of inability of a corporation, or of an officer of any corporation required to file a return, or for other sufficient reason, the department of ~~taxation~~ revenue may on written request allow such further time for making and delivering such return as they ~~may~~ deem necessary not to exceed 30 days. Income taxes payable upon the filing of the tax return shall not become delinquent during such extension period, but shall be subject to interest at the rate of ~~5%~~ 6% per annum during such period.

(b) In the case of returns of natural persons and fiduciaries which require a statement of amounts or information contained or entered on a corresponding return under the internal revenue code, such returns shall be filed within the time fixed under said code for the filing of the corresponding federal return. Any extension of time granted by law or by the internal revenue service for the filing of such corresponding federal return shall extend the time for filing under this chapter provided a copy of any extension granted by the internal revenue service is filed with the return under this chapter or at such earlier date as the department by rule prescribes. Extensions for periods of 30 days may also be granted by the department in any case for cause satisfactory to it. Taxes payable upon the filing of the return shall not become delinquent during the period of an extension but shall be subject to interest at the rate of ~~5%~~ 6% per annum during such period.

SECTION 3. 71.12 (2) of the statutes is amended to read:

71.12 (2) If the taxpayer requests a hearing, the additional tax or overpayment shall not be placed on the assessment roll until after hearing and determination of the tax by the ~~board of~~ tax appeals commission or disposition of the appeal pursuant to stipulation and order ~~as provided in~~ under ss. 73.01 (5) (a) and 73.03 (25). In the application for such hearing, filed pursuant to sub. (1), the taxpayer may offer to deposit the entire amount of the additional taxes, together with interest thereon, with the state treasurer. If such offer to deposit is made, the department of ~~taxation~~ revenue or assessor of incomes, ~~as the case may be,~~ shall issue a certificate to the state treasurer authorizing him to accept payment of such taxes together with interest thereon to the first day of the succeeding month and to give his receipt therefor. A copy of such certificate shall be mailed to the taxpayer who shall thereupon pay such taxes and interest to ~~said~~ the treasurer within 30 days. A copy of the receipt of the state treasurer shall be filed with the department or the assessor of incomes. The department or assessor of incomes shall, upon final determination of the appeal, certify to the state treasurer the amount of the taxes as finally determined and ~~shall~~ direct him to appropriate the amounts of such taxes, together with the interest thereon, in accordance with s. 71.14 and ~~shall~~ also direct the state treasurer to refund to the appellant any portion of such payment which has been found to have been illegally assessed, including the interest thereon. The state treasurer shall make the refunds directed by such certificate within 30 days after receipt thereof. Taxes paid to the state treasurer under this subsection shall be subject to the interest

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provided by ss. 71.09 (5) and 71.13 (2) only to the extent of the interest accrued on said taxes prior to the first day of the month succeeding the application for hearing. Any portion of the amount deposited with the state treasurer which is refunded to the taxpayer shall bear interest at the rate of ~~5 per cent~~ 6% per annum during the time that the funds were on deposit.

SECTION 4. 71.13 (1) of the statutes is renumbered 71.13 (1) (a) and amended to read:

71.13 (1) (a) Income and franchise taxes shall become delinquent if not paid when due ~~as provided in~~ under s. 71.10 (9), and when delinquent shall be subject to ~~a penalty of 2% on the amount of the tax and interest at the rate of one per cent per month until paid, and if delinquent prior to January 1, 1970, shall also be subject to a penalty of 2% of the amount of the tax and the department of taxation shall immediately proceed to collect the same.~~ For the purpose of such collection the department or its duly authorized agent shall have the same powers as conferred by law upon the county treasurer, county clerk, sheriff and district attorney.

SECTION 5. 71.13 (1) (b) of the statutes is created to read:

71.13 (1) (b) The department shall provide by rule for reduction of interest under par. (a) to 6% per annum in stated instances wherein the secretary of revenue determines reduction fair and equitable.

SECTION 6. 71.20 (5) (c) of the statutes is amended to read:

71.20 (5) (c) Any amount not deposited ~~or paid over to the department~~ within the time required, shall be deemed delinquent and deposit reports ~~and~~ or withholding reports filed after the due date shall be deemed late. Delinquent deposits ~~or payments~~ shall bear interest at the rate of one per cent per month from the date deposits ~~or payments~~ are required under this section until ~~the first day of the month following the month in which the taxes are deposited or paid over to the department.~~ The department shall provide by rule for reduction of interest on delinquent deposits to 6% per annum in stated instances wherein the secretary of revenue determines reduction fair and equitable. In the case of a timely filed deposit ~~or withholding report, withheld taxes shall become delinquent if not deposited or paid over on or before the due date of the report.~~ In the case of no report filed ~~or a report filed late, withheld taxes shall become delinquent if not deposited or paid over by the due date of the report.~~ In the case of an assessment under par. (a), the amount assessed shall become delinquent if not paid on or before the first day of the calendar month following the calendar month in which the assessment becomes final, but if the assessment is contested before the tax appeals commission or in the courts, it shall become delinquent on the 30th day following the date on which the order or judgment representing final determination becomes final.

SECTION 9. 139.05 (6) of the statutes is amended to read:

139.05 (6) If the occupational tax is not paid when due, there is added to the amount of the tax ~~as a penalty a sum equal to 2 per cent thereof, and in addition thereto interest on the tax and penalty at the rate of one per cent per month or fraction of a month from the date the tax became due until paid.~~ Nothing herein contained shall be construed to relieve any person otherwise liable from liability for payment of the occupational tax.

SECTION 10. 139.07 of the statutes is amended to read:

139.07 If the tax imposed in s. 139.03 is not paid when due, ~~a penalty of 2% thereof shall immediately accrue and in addition thereto interest on the tax and penalty at the rate of one per cent per month or fraction of a month shall accrue from the date the tax became due until paid.~~ If any person liable for such tax files a false or fraudulent return, there shall

be added to the tax an amount equal to the tax evaded or attempted to be evaded.

SECTION 11. 139.32 (7) of the statutes is amended to read:

139.32 (7) If the tax imposed by s. 139.31 is not paid when due, a penalty of ~~2%~~ thereof shall immediately accrue and in addition thereto interest ~~on the tax and penalty~~ shall accrue at the rate of one per cent per month or a fraction of a month from the date the tax became due *until paid*.

SECTION 12. EFFECTIVE DATES. The amendment by this act to section 71.09 (5) of the statutes shall apply to assessments made and refunds approved on and after January 1, 1970; the amendment of section 71.10 (5) of the statutes shall apply to returns due on and after January 1, 1970; the amendment of section 71.12 (2) of the statutes shall apply to assessments made or refunds approved on and after January 1, 1970; the amendment of sections 139.05 (6), 139.07 and 139.32 (7) of the statutes shall apply to taxes becoming due on and after January 1, 1970.

Approved Nov. 7, 1969.

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