

1977 Assembly Bill 639

Date published: November 7, 1977

CHAPTER 142, Laws of 1977

AN ACT to repeal 66.054 (9) (f), 71.09 (1), (1b), (2a) to (2c), (2k), (6), (6k) and (7) (g) and 71.10 (2) (a) 1 and 2; to renumber 71.09 (7) (gm); to renumber and amend 61.46 (3) (dm) 1; and to amend 33.30 (3) (c), 62.12 (4m) (d), 66.042 (7), 70.09 (3) (a), 70.111 (10) (b) 7, 70.62 (4) (g) (intro.), 70.995 (8) (a), 71.01 (2), 71.02 (2) (gp) 5, 71.08 (4), 71.09 (7) (a) 8, 71.20 (9) (c) and (d), 76.24 (3), 76.38 (12) (b), 76.48 (5), 77.52 (2) (a) 2, 77.58 (1) and (2) (intro.) and 139.06 (8) of the statutes, relating to administration of the tax laws (suggested as remedial legislation by the department of revenue).

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

SECTION 1. 33.30 (3) (c) of the statutes is amended to read:

33.30 (3) (c) Vote a tax upon all taxable property within the district for the costs of operation for the coming year, which tax shall not exceed a rate of 2.5 mills of equalized valuation as determined by the department of revenue and reported to the district board, a report of which shall be delivered by the treasurer, by October 1, by certified statement to the clerk of each municipality having property within the district for collection.

SECTION 2. 61.46 (3) (dm) 1 of the statutes is renumbered 61.46 (3) (dm) and amended to read:

61.46 (3) (dm) The amount of increase allowed under this subsection may be further increased in 1975 by an amount representing the difference between the amount of surplus funds used to reduce the levy of 1974 and the amount of surplus funds available to reduce the 1975 levy, if the latter is the lesser; in 1976 by an amount representing the difference between the amount of surplus funds used to reduce the levy of 1975 and the amount of surplus funds available to reduce the 1976 levy, if the latter is the lesser; in 1977 by an amount representing the difference between the amount of surplus funds used to reduce the levy of 1976 and the amount of surplus funds used to reduce the levy of 1976 and the amount of surplus funds available to reduce the 1977 levy, if the latter is the lesser; and in 1978 by an amount

representing the difference between the amount of surplus funds used to reduce the levy of 1977 and the amount of surplus funds available to reduce the 1978 levy, if the latter is the lesser.

SECTION 3. 62.12 (4m) (d) of the statutes is amended to read:

62.12 (4m) (d) The department of revenue shall make the estimates of 1976, 1977 and 1978 shared taxes referred to in pars. (b) and (c). It shall notify each city of its 1976 estimate for the city on or before October 24, 1975; ~~and, of its 1977 estimate for the city on or before October 22, 1976; of its 1978 estimate for the city on or before October 21, 1977;~~ and of its 1978 estimate for the city on or before October 21, 1977. The estimates of the department of revenue shall be final.

SECTION 4. 66.042 (7) of the statutes is amended to read:

66.042 (7) No order shall ~~may~~ be issued by the county, city or, village, town, special purpose district, school district, cooperative education service agency or vocational, technical and adult education district clerk in excess of funds available or appropriated for the purposes for which such the order is drawn, unless authorized by a resolution adopted by the affirmative vote of ~~a majority of all members~~ two-thirds of the entire membership of the governing body of ~~such city or village~~.

SECTION 5. 66.054 (9) (f) of the statutes is repealed.

SECTION 6. 70.09 (3) (a) of the statutes is amended to read:

70.09 (3) (a) The department of revenue shall prescribe basic uniform forms of assessment rolls, tax rolls, tax roll settlement sheets, blanks, books and returns required for the assessment and collection of general property taxes throughout the state, and shall furnish each county clerk a sample of such the uniform forms.

SECTION 7. 70.111 (10) (b) 7 of the statutes is amended to read:

70.111 (10) (b) 7. ~~For the purposes of In~~ this subsection "commercial storage warehouse" or "public wharf" ~~is means~~ any warehouse, dock or port facility operated by any person engaged in the business of storing as bailee for hire and for profit who is licensed under s. 99.02 or 100.13. But no portion of a warehouse, dock or port facility owned by the owner, purchaser or consignee of merchandise for which exemption is sought under this subsection, or leased to or operated by such owner or any affiliate or subsidiary of such owner, or any corporation, any substantial part of whose capital stock is owned by stockholders of such owner, or leased to or operated by any individual ~~related to such for whom the owner within any of the degrees of consanguinity or affinity set out in s. 71.09 (6) (b) is entitled to an exemption under section 151 (e) of the federal internal revenue code~~, shall be a "commercial storage warehouse" or "public wharf" for purposes of this subsection.

SECTION 8. 70.62 (4) (g) (intro.) of the statutes is amended to read:

70.62 (4) (g) (intro.) If the county board desires to increase its tax levy above the limitations specified in this subsection, it shall publish such intent in a class ~~II~~ I notice under ch. 985 in the official county newspaper. The question of the proposed increase in levy above the limitations specified in this subsection shall be submitted to a referendum at a spring election, general election or special election. If the increase is approved at the referendum, the county may increase its levy above the limitations specified in this subsection and shall notify the department of revenue of such the increase, on a form provided by the department.

SECTION 9. 70.995 (8) (a) of the statutes is amended to read:

70.995 (8) (a) For purposes ~~hereof of this section~~, the secretary of revenue shall divide the state, by counties, into 5 board of review districts, and, with respect to any such district in which the department of revenue assesses the property described in subs. (1) and (2), shall establish a 5-member district board of review and shall designate 2 of the members ~~thereof~~ as chairman chairperson and secretary, respectively. The members shall be appointed for staggered 5-year terms. ~~Such The~~ district board of review shall function in respect of such property in lieu of the local board of review or the board of review provided for cities of the 1st class, as provided

for in ss. 70.46 to 70.48, and ~~such the~~ local boards of review shall be without jurisdiction to review assessments of such property. District boards of review, ~~so appointed,~~ shall, with respect to such property, have all the authority and responsibility as provided by law for local boards of review or boards of review for cities of the 1st class and, except where clearly inconsistent ~~herewith~~ with this section, all the provisions of law applicable to either type of board of review shall apply to ~~such the~~ district boards of review with the same force and effect as though set out ~~herein in this section~~. In each instance, when an appeal or protest in respect to the assessment of manufacturing property is made by the owner, or agent of the owner, notice of the date, time and place of hearing in respect to ~~such the~~ appeal or protest shall be given by the ~~supervisor of assessments for that particular district by certified mail, secretary of the board of review~~ to the clerk of the municipality where ~~such the~~ property is located. The manner in which the hearing is conducted shall be as prescribed in par. (bd) except that the owner shall be required to present its evidence of value first. The secretary of revenue shall establish a reasonable per diem for work performed by the members of ~~such~~ district boards of review and they shall also be entitled to travel expenses as provided for state employes. Per diem and travel claims shall be approved by the secretary of revenue and audited by the department of administration prior to payment by the state treasurer and shall be charged to the appropriation to the department of revenue for general property tax administration.

SECTION 10. 71.01 (2) of the statutes is amended to read:

71.01 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its franchise or doing business in this state in a corporate capacity every domestic or foreign corporation, except corporations specified in sub. (3), shall annually pay a franchise tax according to or measured by its entire net income of the preceding income year at the rates set forth in s. 71.09 ~~(2am), (2k) and~~ (2m). Every corporation organized under the laws of this state shall be deemed to be residing within this state for the purposes of this franchise tax. All provisions of chs. 71 and 73 relating to net income taxation of corporations shall apply to franchise taxes imposed under this subsection, unless the context requires otherwise. The tax imposed by this subsection on national banking associations shall be in lieu of all taxes imposed by this state on national banking associations to the extent it is not permissible to tax such associations under federal law. The tax imposed by this subsection on insurance companies subject to taxation under this chapter, except societies, organizations or corporations under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, shall be based on net income computed under sub. (4), and no other provision of this chapter relating to computation of taxable income for other corporations shall apply to such insurance companies. All other provisions of this chapter shall apply to insurance companies subject to taxation under this chapter unless the context clearly requires otherwise. The tax imposed upon societies, organizations or corporations under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, shall be upon such net income as is determined by application to such companies of those provisions of the internal revenue code applicable to mutual insurance companies, other than life insurance companies or mutual marine insurance companies, having total receipts over \$500,000 subject to any applicable addition or subtraction as provided in sub. (4) (a).

SECTION 11. 71.02 (2) (gp) 5 of the statutes is amended to read:

71.02 (2) (gp) 5. In the case of a taxpayer with respect to whom a deduction under s. 71.09 ~~(6) (b),~~ (6m) and (6p) is allowable to another taxpayer for the taxable year, the percentage standard deduction shall be computed only with reference to so much of ~~his~~ adjusted gross income as is attributable to ~~his~~ earned income, as defined in section 911 (b) of the internal revenue code as of January 1, 1973, and the low-income allowance shall not exceed ~~his~~ earned income for the taxable year.

SECTION 12. 71.08 (4) of the statutes is amended to read:

71.08 (4) A personal exemption for the decedent under s. 71.09 ~~(6), (6k),~~ (6m) and (6p) shall not be allowed the executor or administrator, except against the tax on

income of the decedent in the year of death. If the decedent would have been entitled to an exemption for the decedent's spouse or a dependent under s. 71.09 ~~(6), (6k), (6m)~~ and (6p), had the decedent lived, such exemption shall be allowed to the executor or administrator so long as over ~~half~~ one-half of the support of the spouse or dependent is supplied by the decedent or by the executor or administrator from the decedent's estate and the gross income of the spouse or dependent for the calendar year in which the taxable year of the executor or administrator begins is less than \$500. If the decedent was a married person at the date of death and if in any year subsequent to the year of death the decedent's surviving spouse is a head of family within the meaning of s. 71.09 ~~(6), (6k), (6m)~~ and (6p), and such surviving spouse does not take a head of family exemption on the individual return, the head of family exemption may be taken on the return of the executor or administrator of the decedent's estate.

SECTION 13. 71.09 (1), (1b), (2a) to (2c), (2k), (6), (6k) and (7) (g) of the statutes are repealed.

SECTION 14. 71.09 (7) (a) 8 of the statutes is amended to read:

71.09 (7) (a) 8. "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on a claimant's homestead in 1964 or any calendar year thereafter ~~pursuant to~~ under ch. 70, less the tax credit, if any, afforded in respect of such property by s. 79.10 (3). When a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common and one or more such persons or entities is not a member of claimant's household, "property taxes accrued" is that part of property taxes levied on such homestead (reduced by the tax credit hereinbefore referred to) as reflects the ownership percentage of the claimant and the claimant's household. For purposes of this paragraph property taxes are "levied" when the tax roll is delivered to the local treasurer with the warrant for collection. When a homestead is sold during the calendar year of the levy the "property taxes accrued" for the seller and buyer shall be the amount of the tax levy prorated to each in the closing agreement pertaining to the sale of the homestead or, if not so provided for in the closing agreement, the tax levy shall be prorated between seller and buyer in proportion to months of their respective ownership, provided that the seller and buyer occupy the homestead during the periods of their respective ownership. When a household owns and occupies 2 or more homesteads in the same calendar year "property taxes accrued" shall be the sum of the prorated taxes attributable to the household for each of such homesteads. If the household owns and occupies the homestead for part of the calendar year and rents a household for part of the calendar year, it may include both the proration of taxes on the homestead owned and "rent constituting property taxes accrued" with respect to the months the homestead is rented, in computing the amount of the claim under pars. (g), ~~(gm)~~ and (gn). Whenever a homestead is an integral part of a larger unit such as a farm, or a multipurpose or multidwelling building, property taxes accrued shall be that percentage of the total property taxes accrued as the value of the homestead is of the total value, except that the claimant may use the total property taxes accrued for the larger unit, but not exceeding 120 acres of land, except as the limitations of par. (h) apply. For claims for 1967 and subsequent years, monthly parking permit fees collected under s. 66.058 (3) (c) shall be considered property taxes.

SECTION 15. 71.09 (7) (gm) of the statutes is renumbered 71.09 (7) (g).

SECTION 16. 71.10 (2) (a) 1 and 2 of the statutes are repealed.

SECTION 17. 71.20 (9) (c) and (d) of the statutes are amended to read:

71.20 (9) (c) An exemption for each individual with respect to whom, on the basis of the facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under s. 71.09 ~~(6) (a), (b) and (c), (6k), (6m)~~ and (6p) for the taxable year in which such day falls.

(d) An exemption as head of a family when on the basis of the facts existing at the beginning of such day such an exemption may reasonably be expected to be allowable

under s. 71.09 ~~(6) (c), (6k),~~ (6m) and (6p) for the taxable year in which such day falls.

SECTION 18. 76.24 (3) of the statutes is amended to read:

76.24 (3) Of taxes paid, net of any refunds and interest on such refunds, by any light, heat and power company, conservation and regulation company or pipeline company, defined by s. 76.02, except taxes on property valued separately under s. 76.16, 83%, except that beginning July 1, 1974, and thereafter 93.3%, before reduction by the credit provided in s. 79.10 (1a) (b), shall be entered in the municipal and county shared tax account and distributed under subch. I of ch. 79. To the extent that the shared tax supplement, under s. 20.835 (1) (aa), must be increased because of any delayed utility tax payments under this section, such delayed payments, when received, shall be entered in the general fund rather than in the shared tax account. For purposes of distributions to municipalities and counties in July and November 1976 and subsequent years under subch. I of ch. 79, the allocation under this subsection to the municipal and county shared tax account shall be determined by applying the 93.3% to the amount of taxes such companies would have paid to the state if the provision for semiannual payments under s. 76.13 (2a) had not been enacted.

SECTION 19. 76.38 (12) (b) of the statutes is amended to read:

76.38 (12) (b) In the case of overpayments of license fees by any telephone company under par. (a), the department shall certify ~~such the~~ overpayments to the department of administration, which shall audit the amount of ~~such the~~ overpayments and the state treasurer shall pay the amounts so audited. The amount of the overpayment previously paid into the municipal and county shared tax account, plus interest on the overpayment, shall, upon refund of the overpayment and interest, be deducted from the amount in the municipal and county shared tax account. All refunds of license fees under this subsection shall bear interest at the annual rate of 6% from the date of the original payment to the date when the refund is made. The time for making additional levies of license fees or claims for refunds of excess license fees paid, in respect to any year, shall be limited to 4 years after the time the report for such year was filed.

SECTION 20. 76.48 (5) of the statutes is amended to read:

76.48 (5) Additional assessments may be made, provided notice ~~thereof~~ is given, within 4 years of the date the annual return was filed, but if no return was filed, or if the return filed was incorrect and was filed with intent to defeat or evade the tax, an additional assessment may be made at any time upon the discovery of gross revenues by the department. Refunds may be made provided claim ~~therefor~~ is filed in writing with the department within 4 years of the date the annual return was filed. Refunds shall bear interest at the rate of 6% per annum and shall be certified by the department to the secretary of administration who shall audit the amounts of such overpayments and the state treasurer shall pay the amount so audited. Any refund, and interest on the refund, shall be ~~reflected in payments made~~ deducted from the municipal and county shared tax account under ch. 79. Additional assessments shall bear interest at the rate of 6% per annum from the time they should have been paid to the date upon which they shall become delinquent if unpaid.

SECTION 21. 77.52 (2) (a) 2 of the statutes is amended to read:

77.52 (2) (a) 2. The sale of admissions to ~~places~~ of amusement, athletic, entertainment or recreational events or places, the sale, rental or use of regular bingo cards, extra regular cards, special bingo cards and the sale of bingo supplies to players and the furnishing, for dues, fees or other considerations, the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic or recreational devices or facilities.

SECTION 22. 77.58 (1) and (2) (intro.) of the statutes are amended to read:

77.58 (1) The taxes imposed by this subchapter ~~from February 1, 1962, to March 31, 1962, are due and payable to the department on April 20, 1962. The taxes~~

~~imposed for the month of April 1962, and for each month thereafter through the month of June 1963 are due and payable on the 20th of the month next succeeding the month for which imposed. The taxes imposed for the months of July, August and September of 1963, and for each calendar quarter thereafter through December 1963 are due and payable on the 20th of the month next succeeding the calendar quarter for which imposed. The taxes imposed for the months of January, February and March 1964, and for each calendar quarter thereafter are due and payable on the last day of the month next succeeding the calendar quarter for which imposed except that effective July 1, 1967, if the amount of tax for any calendar quarter ended before or after such date exceeded \$500, the department may require by written notice to the taxpayer that the taxes imposed on and after the date specified in such notice are due and payable on the last day of the month next succeeding the calendar month for which imposed. If the amount of tax for any calendar quarter exceeded \$3,000, the department may require by written notice to the taxpayer that the taxes imposed on and after the date specified in such notice are due and payable on the 20th day of the month next succeeding the calendar month for which imposed.~~

(2) (intro.) ~~On or before April 20, 1962, a return for the period from February 1, 1962, to March 31, 1962, shall be filed with the department. On or before May 20, 1962, a return shall be filed for the month of April 1962 and a return shall be filed thereafter by the 20th day of each month for taxes imposed for the preceding month up to and including the taxes imposed for the month of June 1963. On or before October 20, 1963, a return shall be filed for the months of July, August and September of 1963, and a return shall be filed thereafter by the 20th day of the month next succeeding each calendar quarter through December 1963 for taxes imposed for the preceding calendar quarter. On or before April 30, 1964, a return shall be filed with the department for January, February and March 1964, and a return shall be filed thereafter by the last day of the month next succeeding each calendar quarter for taxes imposed for the preceding calendar quarter. If payments are required to be made monthly and are due and payable on the last day of the month next succeeding the calendar month for which imposed due pursuant to under sub. (1), a return shall be filed by the last day of the month next succeeding each calendar month for taxes imposed for the preceding calendar month. If payments are required to be made monthly and are due and payable on the 20th day of the month next succeeding the calendar month for which imposed pursuant to under sub. (1), a return shall be filed by the 20th day of the month next succeeding each calendar month for taxes imposed for the preceding calendar month.~~

SECTION 23. 139.06 (8) of the statutes is amended to read:

139.06 (8) No person ~~shall~~ may sell, give or lend any stamps; ~~no.~~ No person ~~shall~~ may purchase, accept, receive or borrow any stamps from any person. Sales and transfers of stamps may be made only by the ~~commissioner~~ secretary. ~~He~~ The secretary shall not sell or issue any stamps to any person other than a licensed manufacturer, rectifier or wholesaler. This subsection does not prevent the pledging of any stamps legally secured to any banking institution in ~~Wisconsin~~ this state as security for a loan.