

State of Wisconsin



1995 Assembly Bill 642

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1995 WISCONSIN ACT 233

AN ACT to repeal 440.08 (2g) (b) 3.; **to renumber and amend** 440.08 (4) (b); **to amend** 71.78 (4) (o), 77.62 (1) (intro.), 78.70 (1) (intro.), 139.03 (2x) (c), 139.03 (4), 139.315 (3), 139.39 (6), 440.03 (12) and 440.08 (2r); and **to create** 71.91 (8), 73.03 (28g), 77.61 (5) (b) 10., 440.01 (2) (cm) and 440.08 (4) (b) 3. and 4. of the statutes; **relating to:** denial by the department of regulation and licensing of applications for renewal of a credential based on a credential holder's tax delinquency.

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

SECTION 1. 71.78 (4) (o) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

71.78 (4) (o) The department of regulation and licensing for the purpose of ~~determining~~ **certifying** under s. 440.08 (~~2r~~) whether an applicant for renewal of a credential is liable for ~~any delinquent taxes owed to this state.~~

SECTION 2. 71.91 (8) of the statutes is created to read:

71.91 (8) **HEARING ON CERTIFICATION OF TAX DELINQUENCY.** The department of revenue shall conduct a hearing requested by a credential holder under s. 440.08 (4) (b) 2. to review a certification of tax delinquency that is the basis of a denial by the department of regulation and licensing under s. 440.08 (4) (b) 1. of an application for the renewal of a credential. A hearing under this subsection is limited to questions of mistaken identity of the credential holder and prior payment of the delinquent taxes for which the department of revenue certified the credential holder is liable. At a hearing under this subsection, any statement filed by the department of revenue or the department of regulation and licensing may be admitted

into evidence and is prima facie evidence of the facts that it contains.

SECTION 3. 73.03 (28g) of the statutes is created to read:

73.03 (28g) To certify to the department of regulation and licensing, at the request of the department of regulation and licensing under s. 440.08 (2r), whether a person who holds a credential issued under chs. 440 to 480 is liable for delinquent taxes, as defined under s. 440.01 (2) (cm).

SECTION 4. 77.61 (5) (b) 10. of the statutes is created to read:

77.61 (5) (b) 10. The department of regulation and licensing for the purpose of certifying under s. 440.08 whether an applicant for renewal of a credential is liable for delinquent taxes.

SECTION 5. 77.62 (1) (intro.) of the statutes is amended to read:

77.62 (1) (intro.) The department of revenue may exercise the powers vested in it by ss. 71.80 (12), 71.82 (2), 71.91 (1) (a) and (c), (2) to (5m) ~~and~~ (7) ~~and~~ (8) and 71.92 in connection with collection of delinquent sales and use taxes including, without limitation because of enumera-

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

tion, the power incorporated by reference in s. 71.91 (5) (j), and the power to:

SECTION 6. 78.70 (1) (intro.) of the statutes is amended to read:

78.70 (1) DEPARTMENT AUTHORITY. (intro.) The department may collect delinquent motor vehicle fuel, alternate fuel and general aviation fuel taxes in the manner provided for the collection of delinquent income and franchise taxes under ss. 71.80 (12), 71.82 (2), 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8) and 71.92, including proceeding under the authority incorporated by reference in s. 71.91 (5) (j) and the authority to:

SECTION 7. 139.03 (2x) (c) of the statutes is amended to read:

139.03 (2x) (c) *Administration.* Sections 71.74 (1), (2), (10), (11), (13) and (14), 71.75 (4) to (7), 71.80 (12), 71.82 (2), 71.83 (2) (b) 3., 71.88 (1) (a) and (2) (a), 71.89, 71.90, 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8), 71.92, 73.01 and 73.015 apply to the administration of this subsection for the assessment and collection of additional taxes when tax rate changes become effective.

SECTION 8. 139.03 (4) of the statutes is amended to read:

139.03 (4) Sections 71.74 (1), (2), (10), (11), (13) and (14), 71.75 (4) to (7), 71.80 (12), 71.82 (2), 71.83 (2) (b) 3., 71.88 (1) (a) and (2) (a), 71.89, 71.90, 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8), 71.92, 73.01 and 73.015 apply to the administration of this section for the assessment and collection of additional taxes when a tax rate change becomes effective.

SECTION 9. 139.315 (3) of the statutes is amended to read:

139.315 (3) ADMINISTRATION. Sections 71.74 (1), (2), (10), (11), (13) and (14), 71.75 (4) to (7), 71.80 (12), 71.82 (2), 71.83 (2) (b) 3., 71.88 (1) (a) and (2) (a), 71.89, 71.90, 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8), 71.92, 73.01 and 73.015 apply to this section.

SECTION 10. 139.39 (6) of the statutes is amended to read:

139.39 (6) Sections 71.74 (1), (2), (10), (11) and (14), 71.77, 71.80 (12), 71.91 (1) (a) and (c) and (2) to ~~(7)~~ (8) and 71.92 as they apply to the taxes under ch. 71 apply to the taxes under this subchapter. Section 71.74 (13) as it applies to the collection of the taxes under ch. 71 applies to the collection of the taxes under this subchapter.

SECTION 11. 440.01 (2) (cm) of the statutes is created to read:

440.01 (2) (cm) "Liable for delinquent taxes" means that a person has been finally determined to be delinquent in the payment of taxes, including penalties, interest, fees and costs, under ch. 71, 72, 76, 77, 78, 125 or 139 and the person remains delinquent in the payment of those taxes at the time the department requests a certification under s. 440.08 (2r) of liability for delinquent taxes.

SECTION 12. 440.03 (12) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

440.03 (12) The department shall establish a procedure for making ~~the determination a request~~ under s. 440.08 (2r) ~~concerning the liability of credential holders to the department of revenue to certify whether a credential holder is liable~~ for delinquent taxes.

SECTION 13. 440.08 (2g) (b) 3. of the statutes, as created by 1995 Wisconsin Act 27, is repealed.

SECTION 14. 440.08 (2r) of the statutes, as created by 1995 Wisconsin Act 27, is amended to read:

440.08 (2r) (title) DETERMINATION CERTIFICATION CONCERNING DELINQUENT TAXES. ~~Before~~ Except as provided in sub. (4) (b) 4., before granting an application to renew any credential issued under chs. 440 to 480, the department shall ~~determine~~, in accordance with the procedure established under s. 440.03 (12), request the department of revenue to certify whether the applicant for the credential renewal is liable for ~~any~~ delinquent taxes ~~owed to this state.~~

SECTION 15. 440.08 (4) (b) of the statutes, as created by 1995 Wisconsin Act 27, is renumbered 440.08 (4) (b) 1. and amended to read:

440.08 (4) (b) 1. If the department ~~determines of revenue certifies, after a request from the department of regulation and licensing~~ under sub. (2r), that an applicant for renewal is liable for ~~any~~ delinquent taxes ~~owed to this state, or if an applicant does not complete the information on the credential renewal application form that is required under sub. (2g) (b), the department of regulation and licensing shall deny the applicant's application for credential renewal.~~

2. The department of regulation and licensing shall notify an applicant for credential renewal that his or her application has been denied under subd. 1. by mailing to the holder of the credential a notice of denial that includes a statement of the facts that warrant the denial under ~~this paragraph subd. 1.~~ and a notice that the holder may, within 30 days after the date on which the notice of denial is mailed, file a written request with the department of ~~revenue~~ to have the certification of tax delinquency on which the denial is based reviewed at a hearing ~~before the department under s. 71.91 (8).~~

SECTION 16. 440.08 (4) (b) 3. and 4. of the statutes are created to read:

440.08 (4) (b) 3. If the certification of tax delinquency that is the basis of a denial of a credential renewal application under subd. 1. is reviewed at a hearing under s. 71.91 (8) and the department of revenue informs the department of regulation and licensing that, as a result of the hearing, the department of revenue affirmed its certification that the applicant is liable for delinquent taxes, the department of regulation and licensing shall affirm its denial under subd. 1. of the applicant's credential renewal application. A credential holder may seek judicial review under ch. 227 in the circuit court for Dane County

of an affirmation by the department of regulation and licensing of a denial under subd. 1.

4. If the department of regulation and licensing denies a credential renewal application under subd. 1. or affirms the denial of a credential renewal application under subd. 3. and the applicant subsequently reapplies for renewal of his or her credential, the department of regulation and licensing shall deny the applicant's application for credential renewal unless the applicant presents a certificate issued by the department of revenue that states that the applicant is not liable for delinquent taxes.

SECTION 17. Initial applicability.

(1) This act first applies to applications submitted to the department of regulation and licensing or to an examining board or affiliated credentialing board attached to the department of regulation and licensing to renew credentials that expire on or after January 1, 1996, or on or after the effective date of this subsection, whichever is later. This subsection does not preclude denial of a credential renewal application to which this act applies based on liability for delinquent taxes for which the credential holder was finally determined to be delinquent before the effective date of this subsection.