CHAPTER 73

TAX APPEALS COMMISSION AND DEPARTMENT OF REVENUE

73.01 Tax appeals commission.
73.015 Review of determination of tax appeals commission.
73.02 Distribution of money; income tax coordinator.
73.028 Levy rate limits and debt conditions; rules.
73.029 Rules required.
73.03 Powers and duties defined.
73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency.
73.0302 Liability for delinquent taxes.
73.0305 Revenue limits calculations.
73.031 Arrest powers.
73.035 Private letter rulings.
73.04 Hearings, witnesses.
73.05 Assessment districts; supervisors; duties.
73.06 Supervision of assessments; supervisors; appointments and duties.
73.07 District offices, supplies, expenses.
73.08 Educational program.
73.09 Assessor certification.
73.10 Municipal finance.
73.12 Set off of payments to vendors.

73.01 Tax appeals commission. (1) DEFINITIONS. In this section:

(a) "Commission" means the tax appeals commission.

(b) "Small claims" is a matter in which the amount in controversy, including any penalty, after the department of revenue takes its final action on the petition for redetermination is less than $2,500 unless the commission on its own motion determines that the case not be heard as a small claims case or unless the department of revenue determines that the case has statewide significance.

(2) EMPLOYES. The chairperson of the commission may appoint, under the classified service, such employes for the commission as are necessary.

(3) HEARINGS AND REPORTS. (a) The time and place of meetings and hearings of the commission shall be designated by the chairperson. Rooms for hearings outside the city of Madison shall be provided under s. 73.07. All hearings held in Milwaukee shall be held in the southeast district office of the department of natural resources. The commission shall maintain permanent hearing rooms in Madison.

(b) The commission shall provide for the publication of such of its reports, decisions and opinions as are of public interest in such form as it deems best adapted for public convenience and use. Such publications shall constitute the official reports of the commission and shall be made available for sale and distribution to the public under ch. 35. In addition to any report submitted under s. 15.06 (7), the commission shall make additional reports to the governor or the legislature as they request. The commission shall submit a report requested by the legislature to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(4) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

(am) Whenever it appears to the commission or, in respect to hearings conducted by one commissioner, to that commissioner that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in those proceedings is frivolous or groundless, the commission or commissioner may assess the taxpayer an amount not to exceed $1,000 at the same time that the deficiency is assessed. Those damages shall be paid upon notice from the department of revenue and shall be collected as a part of the tax.

(b) Any matter required to be heard by the commission may be heard by any member of the commission or its hearing examiner and reported to the commission, and hearings of matters pending before it shall be assigned to members of the commission or its hearing examiner by the chairperson. Unless a majority of the commission decides that the full commission should decide a case, cases other than small claims cases shall be decided by a panel of 3 members assigned by the chairperson prior to the hearing. If the parties have agreed to an oral decision, the member or members conducting the hearing may render an oral decision. Hearings shall be open to the public and all proceedings shall be conducted in accordance with rules of practice and procedure prescribed by the commission. Small claims cases shall be decided by one commissioner assigned by the chairperson prior to the hearing.

(bn) The parties to any matter required to be heard and decided by the commission, except appeals arising under s. 70.64 or ch. 76, may consent in writing that the chairperson or any member of the commission assigned to hear the matter may render an oral decision, and that the parties waive the right to appeal such decision. Such oral decision shall not be binding upon the department, as to statutory construction, in a subsequent matter. Provisions of this section, s. 73.015 or ch. 227 in conflict herewith shall not apply to decisions rendered under this paragraph.

(c) The commission shall, upon the request of any party to a matter pending before it or of any officer of the state government or upon its own motion order that all proceedings in a matter pending before it be recorded, and the expense thereof shall be paid by the state out of the appropriation for the commission. The commission may supply copies of the transcript of those recordings to anyone requesting them, at the expense of the person making such request. All moneys received by the commission from the sale of transcripts of those recordings shall be paid into the state treasury within one week after receipt. If no party to a matter pending before the commission requests that the proceedings held with respect thereto be recorded, and the commission does not so order upon its own motion, all parties shall be deemed to have waived all rights of appeal to the courts upon questions as to the admission or exclusion of evidence or as to whether a finding of the commission is warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by facts stipulated or shown by the findings of the commission is not waived.

(d) Any member of the commission or any employe of the commission, designated in writing for the purpose by the chairperson, may administer oaths, and any member of the commission may summon and examine witnesses and require by subpoena the production of all returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry, at any designated place of hearing and may require the taking of a deposition before any person competent to administer oaths, either within or without the state, upon notice to the interested party in like manner that depositions of witnesses are taken in civil actions pending in the circuit court. Any party to a matter pending before the commission may summon witnesses or require the production of papers in the same manner as witnesses are summoned or papers required to be produced in civil actions in the circuit court. Any person summoned or whose deposition is taken shall receive the same fees and mileage as would be allowed in a civil action pending in the circuit court, and the expense thereof shall be paid by the person summoning such witness or causing the deposition to be taken.

(dn) In connection with the hearing of any matter required to be heard and decided by the commission, except appeals arising under s. 70.64 or ch. 76, the chairperson or any member of the commission assigned to hear the matter may, with the consent of the parties, render an oral decision. In small claims cases, the presiding commissioner may, without consent of the parties, either render an oral decision at the close of the hearing or provide a written decision to all parties within 2 weeks after the hearing. Decisions in small claims cases are not precedents. Any party may appeal such oral decision as provided in s. 73.015. Oral decisions constitute notice for purposes of determining the time in which appeals may be taken. Provisions of this section or ch. 227 in conflict with this paragraph do not apply to decisions rendered under this paragraph.

(e) Except as provided in par. (dn), the commission in each case heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by findings of fact and conclusions of law. The commission may issue an opinion in writing in addition to its findings of fact and decision. The decision or order of the commission shall become final and shall be binding upon the petitioner and upon the department of revenue for that case unless an appeal is taken from the decision or order of the commission under s. 73.015. Except in respect to small claims decisions, if the commission construes a statute adversely to the contention of the department of revenue:

1. Except as provided in subd. 2., the department shall be deemed to acquiesce in the construction so adopted unless the department seeks review of the order or decision of the commission so construing the statute. For purposes of this subdivision, the department has sought review of the order or decision if it seeks review and later settles the case or withdraws its petition for review or if the merits of the case are for other reasons not determined by judicial review. The construction so acquiesced in shall thereafter be followed by the department.

2. The department may choose not to appeal and to nonacquiesce in the decision or order by sending a notice of nonacquiescence to the clerk of the commission, to the revisor of statutes for publication in the Wisconsin administrative register and to the taxpayer or the taxpayer's representative before the time expires for seeking a review of the decision or order under s. 73.015. The effect of this action is that, although the decision or order is binding on the parties for the instant case, the commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the department in other cases.

(f) All reports, findings, decisions and opinions of the commission, and all evidence received by the commission, including a transcript of any report of the proceedings, shall be open to the inspection of the public, except that the originals of books, documents, records, labels, diagrams, and other exhibits introduced in evidence before the commission, may be withdrawn from the custody of the commission in such manner and upon such terms as the commission may, in its discretion, prescribe.

(g) The commission shall, in manufacturing property redeterminations under s. 70.995 for which a refund is due a taxpayer because of a reduction in value by the commission, include in its determination a finding of whether the reduction was due to false or incomplete information supplied by the taxpayer.

(h) The commission may extend any of its deadlines for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(i) If the department of revenue assesses under s. 71.74 (9), the commission shall consolidate the appeals of that assessment.

(4m) DEADLINE FOR DECISIONS. (a) The final decision or order of the commission shall be issued within 90 days after the date on which the last document necessary to the decision of the matter is received or the date on which a hearing is closed, whichever is later, unless good cause is shown or unless the parties and the commission agree to an extension.

(b) No member of the commission, including the chairperson, or its hearing examiner may receive any salary unless he or she first executes an affidavit at the end of each salary period stating that he or she has complied with the deadlines in par. (a). The affidavit shall be presented to and filed with every official who certifies, in whole or in part, the salary.

(c) If a member of the commission, including the chairperson, or its hearing examiner is unable to comply with the deadline under par. (a), that person shall so certify in the record, and the period is then extended for one additional period not to exceed 90 days.

(5) APPEALS TO COMMISSION. (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the department or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a $25 filing fee. The commission shall deposit the fee in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

(b) The petition shall set forth specifically the facts upon which the petitioner relies, together with a statement of the propositions

of law involved, and shall be in such form as the commission by rule designates. After an answer is filed as provided in par. (a), the matter shall be regarded as at issue and the commission shall set it for hearing. At all times while said appeal is pending before the commission, the petitioner shall keep the commission informed as to the petitioner's residence. Upon the petitioner's failure to do so, the mailing by the commission of a notice of hearing, decision and order or other papers by registered mail to the petitioner's attorney or to the petitioner's last−known address shall constitute good and sufficient service. Petitions and answers may be amended under rules to be prescribed by the commission.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27.

A subpoena duces tecum need not show on its face the factual basis for its issuance in order to prove lawful purpose and relevancy. The commission properly took testimony even though it was deciding a question of law. Neu's Supply Line v. Dept. of Revenue, 52 W (2d) 386, 190 NW (2d) 213.

Party challenging administration of taxing statutes must exhaust state administrative remedies before commencing action in state courts under 42 USC 1983. Hogan v. Musolf, 163 W (2d) 1, 471 NW (2d) 216 (1991).

Sub. (4) (dn) does not prohibit petitions for rehearing oral decisions. DOR v. Hogan, 198 W (2d) 792, 543 NW (2d) 825 (Ct. App. 1995).

Sub. (4) (b) does not grant the commission the authority to certify a class in a class−action which seeks income tax refunds. DOR v. Hogan, 198 W (2d) 792, 543 NW (2d) 825 (Ct. App. 1995).

Practice before the Wisconsin tax appeals commission. Smrz, 1976 WBB 3.

Procedures before the Wisconsin tax appeals commission. Boykoff, WBB October 1981.

73.015 Review of determination of tax appeals commission. (1) This section shall provide the sole and exclusive remedy for review of any decision or order of the tax appeals commission and no person may contest, in any action or proceeding, any matter reviewable by the commission unless such person has first availed himself or herself of a hearing before the commission under s. 73.01 or has cross−appealed under s. 70.995 (8) (a).

(2) Any adverse determination of the tax appeals commission is subject to review in the manner provided in ch. 227. If the circuit court construes a statute adversely to the contention of the department of revenue, the department shall be deemed to acquiesce in the construction so adopted unless an appeal to the court of appeals is taken, and the construction so acquiesced in shall thereafter be followed by the department.

History: 1977 c. 29, 187; 1985 a. 29; 1987 a. 399.

73.02 Distribution of money; income tax coordinator. (1) The department of revenue shall, on the certification of the program agencies that all requirements of the applicable laws have been complied with, perform the mechanical operation of the distribution of all moneys which the state distributes to political subdivisions.

(2) The secretary shall designate or appoint under the classified service, within the department of revenue, an income tax coordinator, whose duties shall include the setting up and operation of a coordination program with the internal revenue service to facilitate the reporting of federal adjustments to the department and the interchange of information with respect to examination of returns, adjustments to income, extension of limitations, furnishing copies of returns and other activities essential to an integrated and effective coordination program with the internal revenue service.

73.028 Levy rate limits and debt conditions; rules. The department may promulgate rules to implement and administer the levy rate limits and debt issuance conditions under ss. 66.77 and 67.045.

History: 1993 a. 16.

73.029 Rules required. The department of revenue may require electronic funds transfer only by promulgating rules.

History: 1997 a. 27.

73.03 Powers and duties defined. It shall be the duty of the department of revenue, and it shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and tax laws of the state, over assessors, boards of review, supervisors of equalization, and assessors of incomes, and over the county boards in the performance of their duties in making the taxation district assessment, to the end that all assessments of property be made relatively just and equal at full value and that all assessments of income may be legally and accurately made in substantial compliance with law.

(2) (a) To confer with, advise and direct assessors, boards of review and county boards of assessment as to their duties under the statutes.

(2a) To prepare, have published and distribute to each property tax assessor and to others who so request assessment manuals. The manual shall discuss and illustrate accepted assessment methods, techniques and practices with a view to more nearly uniform and more consistent assessments of property at the local level. The manual shall be amended by the department from time to time to reflect advances in the science of assessment, court decisions concerning assessment practices, costs, and statistical and other information considered valuable to local assessors by the department. The manual shall incorporate standards for the assessment of all types of renewable energy resource systems used in this state as soon as such systems are used in sufficient numbers and sufficient data exists to allow the formulation of valid guidelines. The manual shall incorporate standards, which the department of revenue and the state historical society of Wisconsin shall develop, for the assessment of nonhistoric property in historic districts and for the assessment of historic property, including but not limited to property that is being preserved or restored; property that is subject to a protective easement, covenant or other restriction for historic preservation purposes; property that is listed in the national register of historic places in Wisconsin or in this state's register of historic places and property that is designated as a historic landmark and is subject to restrictions imposed by a municipality or by a landmarks commission. The manual shall incorporate general guidelines about ways to determine whether property is taxable in part under s. 70.1105 and examples of the ways that s. 70.1105 applies in specific situations. The manual shall state that assessors are required to comply with s. 70.32 (1g) and shall suggest procedures for doing so. The manual or a supplement to it shall specify per acre value guidelines for each municipality for various categories of agricultural land based on the income that could be generated from its estimated rental for agricultural use, as defined by rule, and capitalization rates established by rule. The manual shall include guidelines for classifying land as agricultural land, as defined in s. 70.32 (2) (c) 1. and guidelines for distinguishing between land and improvements to land. The cost of the development, preparation, publication and distribution of the manual and of revisions and amendments to it shall be borne by the assessors and requesters at an individual volume cost or a subscription cost as determined by the department. All receipts shall be credited to the appropriation under s. 20.566 (2) (hi). The department may provide free assessment manuals to other state agencies or exchange them at no cost with agencies of other states or of the federal government for similar information or publications.

(3) To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against assessors, members of boards of review, assessors of incomes, and members of county boards, or other assessing or taxing officers, to the proper circuit judge for their removal from office for official misconduct or neglect of duty.

(4) To require district attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishment for violations of the laws of the state in respect to the assessment and taxation of property, in their respective counties.

(5) To collect annually from all town, city, village, county and other public officers information as to the assessment of property, and such other information as may be needful in the work of the department, in such form and upon such blanks as the department shall prescribe; and it shall be the duty of all public officers so called upon to fill out properly and return promptly to the department all blanks so transmitted. To examine all town, village, city and county records for such purposes as are deemed needful by the department. To publish annually the information collected, with such compilations, analyses or recommendations as may be deemed needful.

(6) In its discretion to inspect and examine or cause an inspection and examination of the records of any town, city, village or county officer whenever such officer shall have failed or neglected to return properly the information as required by sub. (5), within the time set by the department of revenue. Upon the completion of such inspection and examination the department of revenue shall transmit to the clerk of the town, city, village or county a statement of the expenses incurred by the department of revenue to secure the necessary information. Duplicates of such statements shall be filed in the office of the department of administration and state treasurer. Within 60 days after the receipt of the above statement, the same shall be audited, as other claims of towns, cities, villages and counties are audited, and shall be paid into the state treasury, in default of which the same shall become a special charge against such town, city, village or county and be included in the next apportionment or certification of state taxes and charges, and collected with interest at the rate of 10% per year from the date such statements were certified by the department, as other special charges are certified and collected.

(7) The officers responsible for the furnishing of the information collected pursuant to this section shall be jointly and severally liable for any loss the town, city, village or county may suffer through their delinquency; and no payment shall be made them for salary, or on any other accounts, until the cost of such inspection and examination as provided above shall have been paid into the town, city, village or county treasury.

(8) To require individuals, partnerships, limited liability companies, companies, associations and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and all other facts which may be needful to enable the department to ascertain the value and the relative burdens borne by all kinds of property in the state.

(9) To summon witnesses to appear and give testimony, and to produce records, books, papers and documents relating to any matter which the department shall have authority to investigate or determine.

(10) To cause the deposition of witnesses residing within or without the state or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions pending in the circuit court, in any matter which the department shall have authority to investigate or determine.

(11) To visit the counties in the state, unless prevented by other necessary official duties, for the investigation of the work and the methods adopted by local assessors, county assessors, boards of review, supervisors of equalization and county boards, in the assessment, equalization and taxation of property. The department of revenue and its district supervisory staff shall assist the county assessor in carrying out the assessor's duties.

(12) To carefully examine into all cases where evasion or violation of the laws for assessment and taxation of property is alleged, complained of or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(13) To investigate the tax systems of other states and countries and to formulate and recommend such legislation as may be deemed expedient to prevent evasion of assessment and tax laws and to secure just and equal taxation and improvement in the system of taxation in the state.

(15) To consult and confer with the governor of the state upon the subject of taxation, the administration of the laws in relation thereto and the progress of the work of the department, and to furnish the governor from time to time such assistance and information as the governor may require.

(17) To disseminate from time to time, in such manner as shall best be calculated to attract general public attention, facts and data concerning public expenditures, sources of revenue, responsibility for levies, the value and relative tax burdens borne by different classes of property, and other useful and valuable information concerning the subject of taxation and public finance.

(18) To exercise and perform such further powers and duties as may be granted to or imposed upon the department by law.

(19) To annually publish the findings of any assessment ratio studies conducted.

(20) To investigate all delinquent personal property, death and income or franchise taxes and surtaxes in the state and the possibility of the collection of them and to require taxing officials, including town treasurers, county treasurers, sheriffs and district attorneys, to institute proceedings, actions and prosecutions for the collection of delinquent taxes so that the amount of delinquent taxes shall be reduced to the minimum. In carrying out this subsection the department of revenue may examine or cause to be examined by any agent, employe or representative designated by it for that purpose, any books, papers, records or memoranda of any corporation, limited liability company, partnership or individual bearing upon the collection of any delinquent taxes and may require the attendance of the officials of any corporation or limited liability company or of any other person having knowledge in the premises and may take testimony and require proof material for their information upon any matter that they deem of value for the purpose of enforcing the payment of delinquent taxes. The department of revenue may also perform other duties and adopt other procedures that may be necessary to carry out this subsection and direct that proceedings, actions and prosecutions be instituted to enforce the laws relating to the collection of delinquent taxes of every kind. To this end, the department of justice shall, upon the request of the department of revenue, conduct such actions, proceedings or prosecutions or assist the local town, city, village or county officials in them or assist the district attorneys.

(22) To appear by its counsel and represent the state in all matters before the tax appeals commission. Except as provided in ch. 72 and in s. 76.08 (1), the department of justice shall provide legal counsel to appear for the department in all courts, but with the consent of the attorney general a member of the staff of the department may appear for the department.

(24) To administer and enforce chs. 125 and 139.

(25) To settle and dispose of tax cases or issues pending before the tax appeals commission when, in the judgment of the department of revenue, such action is warranted in the best interests of the state; and, with the approval of the attorney general, to settle and dispose of tax cases or issues pending in the courts.

(26) To enter into reciprocal agreements with the appropriate official in any other state having a similar law relating to information obtained from returns as authorized by s. 71.78 (3).

(27) To write off from the records of the department income, franchise, sales, use, withholding, motor fuel, gift, beverage and cigarette tax and recycling surcharge liabilities, following a determination by the secretary of revenue that they are not collectible. Taxes written off under this subsection remain legal obligations.

(28) To enter into contracts to collect delinquent Wisconsin taxes. The department shall allocate a portion of the amounts collected under ch. 78 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the transportation fund under s. 25.40. The department shall allocate a portion of the amount collected under chs. 71, 72, 77 and 139 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the general fund.

(28m) To enter into contracts for data base and data processing services for audits of occasional sales of motor vehicles.

(29) To provide on income tax forms a place for taxpayers to indicate the school district in which they reside and information that will assist persons in identifying the correct school district.

(30) To analyze the data provided under sub. (29), after consultation with the department of public instruction and the legislative fiscal bureau, and to notify the presiding officers of the houses of the legislature and the cochairpersons of the joint committee on finance of the results of the analysis.

(31) To compile and to furnish to the clerks of all taxation districts the information required under s. 74.09.

(33m) To collect, as taxes under ch. 71 are collected, from each person who owes to the department of revenue delinquent taxes, fees, interest or penalties, a fee for each delinquent account equal to $35 or 6.5% of the taxes, fees, interest and penalties owed as of the due date specified in the assessment, notice of amount due or notice of redetermination on that account, whichever is greater.

(34) To extend any deadline in regard to the taxes it administers for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(35) To deny a portion of a credit claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds) or (2dx), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) or (4) (am) or 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) or (4) (am) if granting the full amount claimed would violate the requirement under s. 560.797 (4) (e) or would bring the total of the credits granted to that claimant under s. 560.797 (4) (e), or the total of the credits granted to that claimant under all of those subsections, over the limit for that claimant under s. 560.768, 560.795 (2) (b) or 560.797 (5) (b).

(36) To estimate revenues under subch. VII of ch. 77 and submit to the governor, the joint committee on finance and the chief clerk of each house of the legislature for distribution under s. 13.172 (2), not later than November 20 of each even−numbered year, a report of its estimate of those revenues for the current biennium and the following biennium.

(37) To make refunds in connection with motor vehicles returned to the manufacturers by a consumer, as provided under s. 218.015 (2) (e) and (f).

(38) To require each operator of a swap meet, flea market, craft fair or similar event, as defined by rule, to report to the department the name, address, social security number and, if available, the seller's permit number of each vendor selling merchandise at the swap meet, flea market, craft fair or similar event that he or she operates. If any operator fails to comply with the requirements under this subsection, the department of revenue, after notifying that operator of its intent to do so, shall impose a penalty of $200 for the first failure and $500 for each subsequent failure. The department shall assess and collect the penalties under this subsection as it assesses and collects additional income and franchise taxes.

(40m) To include on the form on which a homestead credit is claimed information about the property tax deferral program.

(45) To direct the assessor of any taxation district to deny specific claims for property tax exemption or to terminate specific existing property tax exemptions prospectively. After receiving such direction, the assessor shall enter the property on the next assessment roll.

(46) In each school year, to determine and certify to the state superintendent of public instruction the rate for determining the secondary ceiling cost per member under s. 121.07 (6) (d). The rate for any school year is the average percentage change in the consumer price index for all urban consumers, U.S. city average, for the calendar year ending on the 2nd preceding December 31, as computed by the federal department of labor.

(47) To absolve a taxpayer of liability for interest and penalties if the taxpayer shows that the liability resulted because he or she relied on an erroneous, written statement made by an employe of the department acting in an official capacity and that the taxpayer had given the employe adequate and accurate information.

(48) To provide the public with information concerning the availability of the earned income tax credit, and the availability of the federal earned income tax credit under section 32 of the internal revenue code, under criteria, and with a description of the methods that the department uses to provide the information, that the department shall promulgate as rules.

(49) To appoint a farmland advisory council that shall do the following:

(a) Advise the department of revenue on the supplement to the assessment manual's guidelines for assessing agricultural land, and on rules to implement use−value assessment of agricultural land and to reduce expansion of urban sprawl.

(b) Recommend to the legislature an appropriate penalty for converting agricultural land to another use to discourage urban sprawl.

(c) Annually report to the legislature on the usefulness of use−value assessment as a way to preserve farmland and to reduce the conversion of farmland to other uses.

(d) Recommend a method to adjust the shared revenue formula and other formulas one factor of which is equalized value to compensate counties, municipalities and school districts that are adversely affected by use−value assessment.

(dg) Calculate the federal land bank's 5−year average capitalization rate and per−acre values based on estimated income generated from rental for agricultural use.

(dm) Carry out its duties in cooperation with the strategic growth task force of the governor's land use council.

(e) Include the following members:

1. The secretary of revenue, who shall serve as chairperson.
2. An agribusiness person.
3. A person knowledgeable about agricultural lending practices.
4. An agricultural economist employed by the University of Wisconsin System.
5. A mayor of a city that has a population of more than 40,000.
6. An expert in the environment.
7. A nonagricultural business person.
8. A professor of urban studies.
9. A farmer.

(50) With the approval of the joint committee on finance, to establish fees for obtaining a business tax registration certificate, which, except as provided in s. 73.0302, is valid for 2 years, and for renewing that certificate and, except as provided in s. 73.0302, shall issue and renew those certificates if the person who wishes to obtain or renew a certificate applies on a form that the department prescribes; sets forth the name under which the applicant intends to operate, the location of the applicant's place of operations, the social security number of the applicant if the applicant is a natural person and the other information that the department requires; and, in the case of a sole proprietor, signs the form or, in the case of other persons, has an individual who is authorized to act on behalf of the person sign the form, or, in the case of a single−owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code, the person is the owner.

(50m) To enter into a memorandum of understanding with the department of workforce development under s. 49.857. The

department of revenue shall suspend, refuse to issue or refuse to renew any certificate issued under sub. (50) as provided in the memorandum of understanding entered into under s. 49.857. Notwithstanding ss. 71.78 and 77.61 (5), the department of revenue shall disclose to the department of workforce development the social security number of any applicant for a certificate issued under sub. (50) as provided in the memorandum of understanding.

(51) To revoke all permits, licenses and certificates that the department has issued to a person who fails timely to renew a certificate under sub. (50), and to reissue those permits, licenses and certificates if the person renews the certificate under sub. (50).

(52) To enter into agreements with the internal revenue service that provide for offsetting state tax refunds against federal tax obligations and offsetting federal tax refunds against state tax obligations, if the agreements provide that setoffs under ss. 71.93 and 71.935 occur before the setoffs under those agreements.

(53) To enter into agreements with direct marketers about the collection of state and local sales taxes and use taxes.

(54) To publish instructional material that provides information to persons who wish to object to valuations under s. 70.47 and to distribute that material in sufficient quantity to taxation districts.

(55) To provide or approve suitable training sessions at suitable times and instructional material for board of review members.

History: 1971 c. 40, 215; 1973 c. 90; 1975 c. 39; 1977 c. 143; 1977 c. 196 s. 130 (7); 1977 c. 313; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 350; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 275 s. 15 (4); 1983 a. 524; 1983 a. 538 s. 269 (3); 1985 a. 12, 29, 273; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 328, 378, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 74, 335; 1991 a. 39, 219, 313, 316; 1993 a. 16, 112, 205, 490; 1995 a. 27 ss. 3434g to 3440m, 9145 (1); 1995 a. 209, 233; 1997 a. 27, 35, 191, 237, 252.

Department's construction of tax law in official technical information memorandums estopped department from collecting tax in this case. Dept. of Revenue v. Family Hospital, 105 W (2d) 250, 313 NW (2d) 828 (1982).

Department's subpoena authority does not permit it to take possession of subpoenaed records for more than one business day; however, department may repeatedly subpoena records until its investigation is completed. State v. Kielisch, 123 W (2d) 125, 365 NW (2d) 904 (Ct. App. 1985).

73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency.

(1) DEFINITIONS. In this section:

(a) "Credential" has the meaning given in s. 440.01 (2) (a), but does not include a registration as an inactive licensee under s. 452.12 (6) (b).

(b) "Credentialing board" means a board, examining board or affiliated credentialing board in the department of regulation and licensing that grants a credential.

(c) "Liable for delinquent taxes" means that a person has exhausted all legal remedies to challenge the assertion that the person owes taxes, including penalties, interest, fees and costs, under ch. 71, 72, 76, 77, 78, 125 or 139 and sufficient time has elapsed so that the person is delinquent in the payment of those taxes.

(d) "License" means any of the following:

1. An approval specified in s. 29.09 (11r) [29.024 (2r)].

NOTE: The bracketed language indicates the correct cross−reference as renumbered by the revisor under s. 13.93 (1) (b). Corrective legislation is pending.

2. A license issued by the department of health and family services under s. 48.66 (1) to a child welfare agency, group home, shelter care facility or day care center, as required by s. 48.60, 48.625, 48.65 or 938.22 (7).

3. A license, certificate of approval, provisional license, conditional license, certification, certification card, registration, permit, training permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7) (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3) or (3m), 146.50 (5) (a) or (b), (6g) (a), (7) or (8) (a) or (f), 250.05 (5), 252.23 (2), 252.24 (2), 254.176, 254.20 (3), 255.08 (2) (a) or 343.305 (6) (a) or a permit for operation of a campground specified in s. 254.47 (1).

3m. A license or certificate issued by the department of workforce development under s. 102.17 (1) (c), 103.275 (2) (b), 103.91 (1), 103.92 (3), 104.07 (1) or (2) or 105.13 (1).

5. A license, as defined in s. 101.02 (20) (a).

6. A license or certificate of registration issued by the department of financial institutions, or a division of it, under s. 138.09, 138.12, 217.06, 218.01, 218.02, 218.04, 218.05 or 224.72 or under subch. III of ch. 551.

7. A license described in s. 218.01 (2) (d) 1. and 8., a license described in s. 218.01 (2) (d) 2., 3. or 5., a license issued under s. 218.11, 218.12, 218.22, 218.32, 218.41, 343.61 or 343.62, a buyer identification card issued under s. 218.51 or a certificate of registration issued under s. 341.51.

7m. A license issued under s. 562.05 or 563.24.

8. A license, registration or certification specified in s. 299.07 (1) (a).

9. A credential.

10. A license or permit granted by the department of public instruction.

11. A license to practice law.

12. A license issued under s. 628.04, 632.68 (2) or (4) or 633.14 or a temporary license issued under s. 628.09.

13. A license issued by the ethics board under s. 13.63 (1).

14. A permit under s. 170.12.

(e) "Licensing department" means the department of administration; the board of commissioners of public lands; the department of commerce; the ethics board; the department of financial institutions; the department of health and family services; the department of natural resources; the department of public instruction; the department of regulation and licensing; the department of workforce development; the office of the commissioner of insurance; or the department of transportation.

(f) "Nondelinquency certificate" means a certificate that the department of revenue issues to a person and that states that the person is not delinquent in the payment of taxes, including penalties, interest, fees and costs, under ch. 71, 72, 76, 77, 78, 125 or 139.

(2) DUTIES AND POWERS OF LICENSING DEPARTMENTS. (a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4) (a) that requires the licensing department or supreme court to do all of the following:

1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of regulation and licensing shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1) (d) 7.

2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of regulation and licensing shall make a request under this subdivision.

(b) Each licensing department and the supreme court, if the supreme court agrees, shall do all of the following:

1. a. If, after a request is made under par. (a) 1. or 2., the department of revenue certifies that the license holder or applicant for a license or license renewal or continuation is liable for delinquent taxes, revoke the license or deny the application for the license or license renewal or continuation. The department of transportation may suspend licenses described in sub. (1) (d) 7. in lieu of revoking those licenses. A suspension, revocation or denial under this subd. 1. a. is not subject to administrative review or, except as provided in subd. 2., judicial review. With respect to a license granted by a credentialing board, the department of regu-

lation and licensing shall make a revocation or denial under this subd. 1. a.

b. Mail a notice of suspension, revocation or denial under subd. 1. a. to the license holder or applicant. The notice shall include a statement of the facts that warrant the suspension, revocation or denial and a statement that the license holder or applicant may, within 30 days after the date on which the notice of denial, suspension or revocation is mailed, file a written request with the department of revenue to have the certification of tax delinquency on which the suspension, revocation or denial is based reviewed at a hearing under sub. (5) (a). With respect to a license granted by a credentialing board, the department of regulation and licensing shall mail a notice under this subd. 1. b.

2. If notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after a hearing under sub. (5) (a), affirm a suspension, revocation or denial under subd. 1. a. A license holder or applicant may seek judicial review under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County, of an affirmation of a revocation or denial under this subdivision. With respect to a license granted by a credentialing board, the department of regulation and licensing shall make an affirmation under this subdivision.

3. If a person submits a nondelinquency certificate issued under sub. (5) (b) 1., reinstate the license or grant the application for the license or license renewal or continuation, unless there are other grounds for suspending or revoking the license or for denying the application for the license or license renewal or continuation. If reinstatement is required under this subdivision, a person is not required to submit a new application or other material or to take a new test. No separate fee may be charged for reinstatement of a license under this subdivision. With respect to a license granted by a credentialing board, the department of regulation and licensing shall reinstate a license or grant an application under this subdivision.

4. If a person whose license has been suspended or revoked or whose application for a license or license renewal or continuation has been denied under subd. 1. a. submits a nondelinquency certificate issued under sub. (3) (a) 2., reinstate the license or grant the person's application for the license or license renewal or continuation, unless there are other grounds for not reinstating the license or for denying the application for the license or license renewal or continuation. With respect to a license granted by a credentialing board, the department of regulation and licensing shall reinstate a license or grant an application under this subdivision.

(c) 1. Each licensing department and the supreme court may require a holder of a license to provide the following information upon request:

a. If the license holder is an individual, the license holder's social security number.

b. If the license holder is not an individual, the license holder's federal employer identification number.

2. A licensing department may not disclose any information received under subd. 1. to any person except to the department of revenue for the sole purpose of requesting certifications under par. (b) 2. in accordance with the memorandum of understanding under sub. (4) or to the department of workforce development for the purpose of administering s. 49.22.

(3) DUTIES AND POWERS OF DEPARTMENT OF REVENUE. (a) The department of revenue shall do all of the following:

1. Enter into a memorandum of understanding with each licensing department and the supreme court, if the supreme court agrees, under sub. (4) (a).

2. Upon the request of any applicant for issuance, renewal, continuation or reinstatement of a license whose license has been previously revoked or whose application for a license or license renewal or continuation has been previously denied under sub. (2) (b) 1. a., issue a nondelinquency certificate to the applicant if the applicant is not liable for delinquent taxes.

(b) If a request for certification is made under sub. (2) (a) 1. or 2., the department of revenue may, in accordance with a memorandum of understanding entered into under par. (a) 1., certify to the licensing department or the supreme court that the applicant or license holder is liable for delinquent taxes.

(4) MEMORANDUM OF UNDERSTANDING. (a) Each memorandum of understanding shall include procedures that do all of the following:

1. Establish requirements for making requests under sub. (2) (a) 1. and 2., including specifying the time when a licensing department or the supreme court shall make requests under sub. (2) (a) 1. and 2., and for making certifications under sub. (3) (b).

2. Implement the requirements specified in sub. (2) (b) 3. and 4.

(b) Factors such as the need to issue licenses in a timely manner, the convenience of applicants, the impact on collecting delinquent taxes, the effects on program administration and whether a suspension, revocation or denial under sub. (2) (b) 1. a. will have an impact on public health, safety or welfare or the environment shall be considered in establishing requirements under par. (a) 1.

(5) HEARING. (a) The department of revenue shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2) (b) 1. b. or by an applicant for certification or recertification or a certificate holder under s. 73.03 (50) or 73.09 (7m) (b) to review a certification or determination of tax delinquency that is the basis of a denial or revocation of a license in accordance with this section or of a certificate, certification or recertification under s. 73.03 (50) or 73.09 (7m). A hearing under this paragraph is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the delinquent taxes for which the department of revenue certified or determined the license or certificate holder or applicant is liable. At a hearing under this paragraph, any statement filed by the department of revenue, the licensing department or the supreme court, if the supreme court agrees, may be admitted into evidence and is prima facie evidence of the facts that it contains. Notwithstanding ch. 227, a person entitled to a hearing under this paragraph is not entitled to any other notice, hearing or review, except as provided in sub. (2) (b) 2.

(b) After a hearing conducted under par. (a), the department of revenue shall do one of the following:

1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent taxes. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03 (50) or 73.09 (7m) (b), the department shall grant a certification or recertification or reinstate a certification if the department determines that the applicant or certificate holder is not liable for delinquent taxes, unless there are other grounds for denying the application or revoking the certification.

2. Provide notice that the department of revenue has affirmed its certification of tax delinquency to a license holder; to an applicant for a license, a license renewal or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03 (50), or 73.09 (7m) (b), the department of revenue shall provide notice to the applicant or certificate holder that the department of revenue has affirmed its determination of tax delinquency.

History: 1997 a. 237 ss. 301, 307, 532.

73.0302 Liability for delinquent taxes. (1) If the department of revenue determines that an applicant for certification or recertification under s. 73.03 (50) or a person who holds a certificate issued under s. 73.03 (50) is liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department of revenue may deny

the application or revoke the certificate. Except as provided in sub. (3), a denial or revocation under this subsection is not subject to judicial review.

(2) If the department of revenue denies an application or revokes a certificate under sub. (1), the department shall mail a notice of denial or revocation to the applicant or certificate holder. The notice shall include a statement of the facts that warrant the denial or revocation and a statement that the applicant or certificate holder may, within 30 days after the date on which the notice of denial or revocation is mailed, file a written request with the department to have the determination that he or she is liable for delinquent taxes reviewed at a hearing under s. 73.0301 (5) (a).

(3) If, after a hearing under s. 73.0301 (5) (a), the department of revenue affirms a determination under sub. (1) that an applicant or certificate holder is liable for delinquent taxes, the department shall affirm its denial or revocation. An applicant or certificate holder may seek judicial review under ch. 227 in the circuit court for Dane County of an affirmation by the department of a denial or revocation under this subsection.

(4) If, after a hearing under s. 73.0301 (5) (a), the department of revenue determines that a person whose certificate is revoked under sub. (1) is not liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department shall reinstate the certificate. The department may not charge a fee for reinstatement of a certificate under this subsection.

History: 1997 a. 237.

73.0305 Revenue limits calculations. The department of revenue shall annually determine and certify to the state superintendent of public instruction, no later than the 4th Monday in June, the allowable rate of increase for the limit imposed under subch. VII of ch. 121. For that limit, the allowable rate of increase is the percentage change in the consumer price index for all urban consumers, U.S. city average, between the preceding March 31 and the 2nd preceding March 31, as computed by the federal department of labor.

History: 1993 a. 16; 1995 a. 27; 1997 a. 27.

73.031 Arrest powers. A special agent of the department of revenue who has been certified as a law enforcement officer by the law enforcement standards board and who is on duty may arrest a person if the special agent believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state or that a felony warrant has been issued in another state or if a crime has been committed in the presence of the special agent. The special agent shall cause the person arrested and the documents and reports pertaining to the arrest to be delivered to the chief of police or sheriff in the jurisdiction where the arrest is made. The special agent shall be available as a witness for the state. A special agent acting under this section is an employe of the department and is subject to its direction, benefits and legal protection.

History: 1991 a. 39.

73.035 Private letter rulings. (1) In this section, "department" means the department of revenue.

(2) Upon receipt of a request, in the form prescribed by the department, from a person who requests a ruling about facts relating to a tax that the department administers, the department may issue a private letter ruling. Rulings under this section:

(a) May be published if the department decides to do so.

(b) May be edited by the requester as to types of information specified by the department, if that editing is submitted to the department before the deadline that the department establishes and if the department approves the editing.

(c) Do not bind the requester.

(d) May not be appealed.

(e) Do not preclude application for a declaratory ruling under s. 227.41.

(3) Any person who receives a ruling under this section shall attach a copy of it to all of that person's tax returns to which it is relevant.

(4) Rulings under this section and all information related to them are subject to the confidentiality provisions for the tax relevant to the request, except that if a ruling has been edited under sub. (2) (b), or the deadline for editing set by the department has expired, and if the ruling has been published by the department, the published rulings are not subject to those confidentiality provisions.

(5) The department's decision not to issue, or not to publish, a ruling under this section may not be appealed.

History: 1987 a. 399.

73.04 Hearings, witnesses. (1) CONTEMPTS. If any person unlawfully fails to obey any subpoena to appear before the department of revenue or before the tax appeals commission, or unlawfully refuses to testify, such failure or refusal shall be reported to the attorney general and the department of justice shall institute contempt proceedings against such person.

(2) FEES. Officers who serve subpoenas, and witnesses attending hearings at the instance of the department, shall receive like compensation as officers and witnesses in the circuit court. Such compensation shall be charged to the proper appropriation for the department of revenue.

(3) SPECIAL INVESTIGATIONS. The department of revenue may appoint any employe to act for it to investigate and make report to the department upon any matter upon which the department is required to act, and such employe shall have authority to hold hearings, administer oaths, take testimony and perform all other duties necessary to bring such matter before the department for final adjudication and determination.

See note to 71.74, citing State v. Beno, 99 W (2d) 77, 298 NW (2d) 405 (Ct. App. 1980).

73.05 Assessment districts; supervisors; duties. (1) The state shall be divided into income assessment districts, property assessment districts, by the department of revenue, but in no instance shall a county be divided.

(2) The department of revenue shall select and appoint a supervisor of equalization for each property assessment district in the state. Each supervisor shall be a citizen and an elector of this state, but need not be a resident of the district in which appointed to serve. So far as practicable, preference shall be given in making such appointments to residents of the districts.

(3) The department may transfer any supervisor of equalization from one district to another.

History: 1973 c. 90; 1977 c. 29 s. 1647 (15); 1977 c. 143, 272; 1981 c. 20; 1983 a. 275 s. 15 (3).

73.06 Supervision of assessments; supervisors; appointments and duties. (1) The department of revenue, through its supervisors of equalization, shall have complete supervision and direction of the work of the local assessors. It shall annually, or more often if deemed necessary at a time which in its judgment is best calculated to obtain the ends sought, call a meeting of all local assessors for conference and instruction relative to their duties in the valuation and assessment of property. The department of revenue may also call a similar meeting of local clerks and other officials for conference and instruction relative to their duties in the valuation and assessment of property. Each official upon notice by mail from the supervisor shall attend the meeting, and shall receive travel expenses from his or her residence to the meeting site and return and the compensation and mileage that the board establishes, but not less than $5 per day and 6 cents per mile; except that in counties having a population of 500,000 or more, no compensation, travel expense or mileage shall be allowed. This compensation shall be paid out of the treasury of the county in which the local official resides upon the certificate

of the supervisor of equalization showing attendance and travel, as certificates of witnesses and jurors are paid.

(2) The department of revenue, through its supervisors of equalization shall have access to all public records, books, papers and offices throughout each district and shall make a full and complete examination of them and investigate all other matters and subjects relative to the assessment and taxation of general property therein.

(3) The department of revenue, through its supervisors of equalization, shall examine and test the work of assessors during the progress of their assessments and ascertain whether any of them is assessing property at other than full value or is omitting property subject to taxation from the roll. The department and such supervisors shall have the rights and powers of a local assessor for the examination of persons and property and for the discovery of property subject to taxation. If any property has been omitted or not assessed according to law, they shall bring the same to the attention of the local assessor of the proper district and if such local assessor shall neglect or refuse to correct the assessment they shall report the fact to the board of review. If it discovers errors in identifying or valuing property that is exempt under s. 70.11 (39), the department shall change the specification of the property as taxable or exempt and shall change the value of the property. All disputes between the department, municipalities and property owners about the taxability or value of property that is reported under s. 79.095 (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the procedures under s. 70.995 (8).

(4) If the department of revenue ascertains, or has good reason to believe, that any assessor is guilty of a violation of law, it may make a complaint to the circuit court for the removal of the assessor. The district attorney shall attend and prosecute the proceedings for removal.

(5) The department of revenue through its supervisor of equalization shall make a report to the county board of each county showing in detail the work of local assessors in their several districts, the failure, if any, of such assessors to comply with the law, the relative assessed and full value of property in each taxation district, and all information and statistics that may be obtained. Such report shall be filed with the county clerk at least 15 days before the annual meeting of the county board.

(7) The department of revenue shall call a meeting of the supervisors of equalization at the capitol at a specified time in each year, for a conference on the subjects of taxation and the administration of the laws, and for the instruction of such officers in their duties.

(8) For purposes of this section "local assessor" includes the county assessors under s. 70.99.

History: 1973 c. 90; 1977 c. 449; 1981 c. 20; 1983 a. 275 ss. 11, 15 (3) to (6); 1983 a. 538 s. 269 (3); 1987 a. 399; 1997 a. 237.

Cross−reference: See s. 17.14 on removal of assessors from office.

73.07 District offices, supplies, expenses. (1) Office furniture and equipment furnished to income assessment district and branch offices by counties prior to July 1, 1986, shall remain in those offices until the department of revenue determines that the furniture and equipment are no longer needed.

(2) Office furniture and equipment furnished to supervisors of equalization prior to January 1, 1974, shall continue to be furnished until no longer required by them.

(3) The county board of any county shall provide rooms for the use of the tax appeals commission upon the request of the chairperson of the commission. Hearings of the commission may also be held in the department's district income tax office when the chairperson of the commission deems it advisable.

History: 1971 c. 42; 1973 c. 90; 1977 c. 143; 1979 c. 110 s. 60 (13); 1983 a. 275 s. 15 (4); 1983 a. 538 s. 269 (3); 1985 a. 29; 1993 a. 184.

73.08 Educational program. From the amounts provided under s. 20.566 (2) (a), beginning in 1994, the department of revenue shall implement an educational program for local assessment staff members in taxation districts that do not meet the requirements of s. 70.05 (5) (f).

History: 1977 c. 29; 1981 c. 20, 328; 1983 a. 27; 1983 a. 275 s. 15 (4); 1983 a. 538 s. 269 (3); 1985 a. 29; 1987 a. 399; 1989 a. 359; 1991 a. 39; 1993 a. 16.

73.09 Assessor certification. (1) LOCAL ASSESSMENT PERSONNEL. The department of revenue shall establish by rule the level of certification under sub. (3), the continuing education requirements under sub. (4), examinations under sub. (5), and the requirements for and responsibilities associated with temporary certification under sub. (6) for all assessors and assessment personnel of each local unit of government and for county assessor systems under s. 70.99.

(2) DEPARTMENT OF REVENUE ASSESSMENT PERSONNEL. The requirements established for local assessment personnel under sub. (1) shall also apply to department of revenue assessment personnel commencing on January 1, 1981. The department of employment relations with the assistance of the department of revenue shall determine the position classifications for which certification shall apply within the department of revenue. The first level of certification shall be obtained within 100 days of the employe's appointment. The department of revenue in consultation with the department of employment relations shall establish requirements for obtaining higher levels of assessor certification.

(3) LEVELS OF CERTIFICATION. The levels of certification for assessors and assessment personnel shall be commensurate with the degree of complexity of the various classes of property within each taxation district.

(4) RECERTIFICATION. (a) All certifications issued prior to January 1, 1981, are valid for 10 years from the date of issuance. All certifications issued on or after January 1, 1981, but before August 15, 1991, expire on the 6th June 1 following the date of issuance. All certifications issued on or after August 15, 1991, expire 5 years after the date on which they are issued.

(b) Persons may be recertified by passing an examination as provided in sub. (5) or by attendance for 4 of the previous 5 years at annual meetings called by the department of revenue under s. 73.06 (1) and by meeting continuing education requirements determined by the department of revenue.

(c) Recertification is contingent upon submission of a notarized application for renewal, at least 60 days before the expiration date of the current certificate, attesting to the completion of the requirements specified in par. (b). Persons applying for renewal on the basis of attendance at the meetings called by the department under s. 73.06 (1) and by meeting continuing education requirements shall submit a $20 recertification fee with their applications.

(5) EXAMINATIONS. As provided in subs. (1) and (2), the department of revenue, assisted by the division of merit recruitment and selection in the department of employment relations, shall prepare and administer examinations for each level of certification. Persons applying for an examination under this subsection shall submit a $20 examination fee with their application. Certification shall be granted to each person who passes the examination for that level.

(6) TEMPORARY CERTIFICATION. As provided in subs. (1) and (2), the department of revenue shall promulgate rules for the temporary certification of the first level of certification and designate the functions that may be performed by such persons. An individual may be granted one temporary certification, valid until the results of the next certification examination are issued, but not for more than 100 days.

(6m) SOCIAL SECURITY NUMBERS. Each applicant for certification or recertification under this section shall provide the applicant's social security number on the application. The department of revenue may not disclose a social security number that it obtains under this subsection. The department of revenue may not certify or recertify any person who fails to provide his or her social security number on his or her application.

(7) REVOCATION OF CERTIFICATION. (a) The secretary of revenue or a designee may revoke the certification of any assessor, assessment personnel or expert appraiser for the practice of any fraud or deceit in obtaining certification, or any negligence, incompetence or misconduct, including making a fraudulent change in the assessment roll after it is opened for examination under s. 70.47 (3).

(b) Charges of fraud, deceit, negligence, incompetence or misconduct may be made against any assessor, assessment personnel or expert appraiser by the department of revenue. Such charges shall be in writing, stating the specific acts, and submitted to the secretary of revenue. All charges shall be heard by the secretary within 3 months after their filing.

(c) The time and place for such hearing shall be fixed by the secretary of revenue and a copy of the charges, together with a notice of the time and place of hearing, shall be given by personal service or by registered letter with return receipt requested, mailed to the last−known address of such expert appraiser, at least 30 days before the hearing. The expert appraiser so charged shall have the right to appear personally and by counsel, to cross−examine witnesses appearing against him or her, and to produce evidence and witnesses in his or her own defense.

(d) If, after such hearing, the secretary of revenue determines that there is just cause for revocation, the secretary shall revoke the certificate of registration of the expert appraiser and notify the expert appraiser to that effect. The expert appraiser shall return his or her certificate to the secretary of revenue immediately on receipt of the notice. The action of the secretary of revenue may be reviewed under ch. 227.

(e) The secretary of revenue, for reasons sufficient, may reinstate a certificate of registration that has been revoked under this subsection, after one year upon formal application for reinstatement.

(7m) LIABILITY FOR DELINQUENT TAXES. (a) If the department of revenue determines that an applicant for certification or recertification under this section or a person who holds a certificate issued under this section is liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department of revenue may deny the application or revoke the certificate. Except as provided in par. (c), a denial or revocation under this paragraph is not subject to judicial review.

(b) If the department of revenue denies an application or revokes a certificate under par. (a), the department shall mail a notice of denial or revocation to the applicant or certificate holder. The notice shall include a statement of the facts that warrant the denial or revocation and a statement that the applicant or certificate holder may, within 30 days after the date on which the notice of denial or revocation is mailed, file a written request with the department to have the determination that he or she is liable for delinquent taxes reviewed at a hearing under s. 73.0301 (5) (a).

(c) If, after a hearing under s. 73.0301 (5) (a), the department of revenue affirms a determination under par. (a) that an applicant or certificate holder is liable for delinquent taxes, the department shall affirm its denial or revocation. An applicant or certificate holder may seek judicial review under ch. 227 in the circuit court for Dane County of an affirmation by the department of a denial or revocation under this paragraph.

(d) If, after a hearing under s. 73.0301 (5) (a), the department of revenue determines that a person whose certificate is revoked under par. (a) is not liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department shall reinstate the certificate. The department may not charge a fee for reinstatement of a certificate under this paragraph.

History: 1979 c. 221; 1981 c. 20 s. 1039; 1983 a. 27 ss. 1264v, 2200 (15); 1985 a. 120; 1991 a. 39, 316; 1997 a. 237.

73.10 Municipal finance. (1) In this section "department" means the department of revenue.

(2) (a) The department shall collect annually from all town, city, village, county and other public officers, information as to the collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as is needed by the department, in such form and upon such blanks as the department prescribes, including but not limited to the requirements under par. (b). All public officers so called upon shall fill out properly and return promptly to the department all blanks so transmitted. The department shall examine all town, village, city, county and other public records for such purposes as the department deems necessary. The department shall publish annually the information collected, with such compilations, analyses or recommendations as are deemed necessary. The department shall disseminate information concerning local government accounting, auditing and fiscal matters.

(b) The department may require by rule that the information it needs under par. (a) be submitted as annual financial statements, notes to the financial statements and supporting schedules, that the statements, notes and schedules conform to generally accepted accounting principles promulgated by the governmental accounting standards board or its successor bodies and that the statements, notes and schedules be audited in accordance with generally accepted auditing standards. Notwithstanding s. 227.01 (13) (j), a rule under this paragraph is subject to the requirements of ch. 227.

(3) The department may inspect and examine or cause an inspection and examination of the records of any town, city, village, county or other public officer whenever such officer fails or neglects to return properly the information required by sub. (2) within the time specified under s. 86.303 (5) (c), (d) or (g).

(4) The officers responsible for the furnishing of information collected pursuant to this section shall be jointly and severally liable for any loss the town, city, village, county or other local public body, board, commission or agency suffers through their delinquency; and no payment shall be made them for salary, or on any other accounts, until the total amount of charges for such inspection and examination as provided in sub. (6) has been paid into the treasury of the regular county or other local public body, board, commission or agency.

(5) The department may inquire into the system of accounting of public funds in use by towns, villages, cities, counties and all other local public bodies, boards, commissions, departments or agencies except technical college districts and school districts; devise a system of accounts which is as nearly uniform as practicable; and audit the books of the town, village, city, county or other local public body, board, commission, department or agency, or any municipal electric utility upon its own motion.

(6) The department may establish a scale of charges for audits, inspections and other services rendered by the department in connection with financial records or procedures of towns, villages, cities, counties and all other local public bodies, boards, commissions, departments or agencies. Upon the completion of such work or, at the department's discretion, during work in progress, the department shall transmit to the clerk of the town, village, city, county or other local public body, board, commission, department or agency a statement of such charges. Duplicates of the statements shall be filed in the offices of the state treasurer. Within 60 days after the receipt of the above statement of charges, it shall be audited as other claims against towns, villages, cities, counties and other local public bodies, boards, commissions, departments or agencies are audited, and it shall be paid into the state treasury and credited to the appropriation under s. 20.566 (2) (gi). Past due accounts of towns, villages, cities, counties and all other local public bodies, boards, commissions, departments or agencies shall be certified on or before the 4th Monday of August of each

year and included in the next apportionment of state special charges to local units of government.

History: 1971 c. 108 ss. 1, 4, 6; 1971 c. 125 ss. 36, 394; 1971 c. 154 s. 1; 1971 c. 211 ss. 85, 86; 1973 c. 90; 1973 c. 243 s. 82; 1975 c. 224; 1977 c. 29, 418; 1981 c. 20, 237; 1983 a. 27; 1983 a. 192 s. 303 (7); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 225; 1987 a. 399; 1991 a. 39; 1993 a. 399.

73.12 Set off of payments to vendors. (1) DEFINITIONS. In this section:

(a) "Tax" means an amount that is owed to this state under ch. 71, 72, 76, 77, 78 or 139 and any addition to tax, interest, penalties or other liability in respect to those amounts and that has been reduced to a tax warrant or in respect to which the time limit for appeal has passed.

(b) "Vendor" means a person providing goods or services to this state under subch. IV or V of ch. 16 or under ch. 84 if the value of the contract for those goods or services is at least $500.

(2) REQUEST FOR SETOFF. The department of revenue may request the department of administration to proceed under sub. (3) against any vendor who owes a tax. A request under this subsection consists of identification of the vendor and of the vendor's contracts with this state and notice to the vendor of the request for a setoff.

(3) SETOFF. Upon receipt of a request under sub. (2), the department of administration shall begin to set off against amounts owed by this state to a vendor taxes owed to this state by that vendor until those taxes are paid in full. If the secretary of administration determines, within 30 days after receipt of a request for setoff, that the vendor against whom setoff is requested is either an essential supplier of critical commodities or the only vendor from whom a necessary good or service can be obtained and notifies the secretary of revenue of that determination, the department of administration shall waive the right of setoff and the department of administration shall pay to the vendor the amounts set off. The department of administration shall, within 30 days after the end of each calendar quarter, transfer to the department of revenue the taxes set off during the previous calendar quarter for deposit in the general fund, or in the transportation fund in respect to taxes owed under ch. 78, and shall notify the department of revenue of the amounts set off against each vendor.

(4) APPLICATION OF PROCEEDS. Upon notice under sub. (3), the department of revenue shall reduce on its books the liability of the vendor by the amount set off. The department shall reduce the principal amount of tax liability and related amounts beginning with the liability of longest standing and proceeding chronologically to the most recent liability. In respect to each principal amount of liability and related amounts, the department of revenue shall reduce amounts in the order provided in s. 71.91 (5) (k).

(5) LIABILITY PRECLUDED. Exchange of information required to administer this section does not result in liability under s. 71.78, 72.06, 77.61 (5), 78.80 (3) or 139.38 (6). The department of administration is not liable to any vendor because of setoffs under this section.

(6) PRESERVATION OF OTHER REMEDIES. The availability of the remedy under this section does not abridge the rights of the department of revenue to proceed under ss. 71.80 (12), 71.91 (1) (a) and (c) and (2) to (5m) and 71.92.

(7) TAX IDENTIFICATION INFORMATION. The department of administration may collect from vendors and provide to the department of revenue any tax identification information that the department of revenue requires to administer the program under this section.

History: 1985 a. 29; 1987 a. 312 s. 17; 1989 a. 31; 1997 a. 237.