

1999 SENATE BILL 161

May 18, 1999 – Introduced by Senators PLACHE, PANZER, WIRCH, DARLING, ZIEN and ROESSLER, cosponsored by Representatives F. LASEE, BOCK, OLSEN, YOUNG, GUNDERSON, TURNER, MUSSER, MILLER, HUBER, BOYLE, LASSA and J. LEHMAN. Referred to Committee on Economic Development, Housing and Government Operations.

1 **AN ACT to amend** 71.92 (3) of the statutes; **relating to:** authorizing payment
2 schedules for delinquent taxpayers who enter into a compromise with the
3 department of revenue.

Analysis by the Legislative Reference Bureau

Under current law, any taxpayer may petition the department of revenue (DOR) to compromise delinquent income or franchise taxes, including any applicable costs, penalties and interest. The petition must contain a sworn statement of the taxpayer, and DOR may examine the taxpayer under oath regarding the matter. If DOR determines that the taxpayer is unable to pay in full the amount due, based on an examination of the taxpayer's financial statements and any other information required by DOR, DOR is required to determine the amount that the taxpayer is able to pay. DOR is then required to enter an order reducing the taxes, costs, penalties and interest due in accordance with its determination. The compromise is effective only if it is paid within ten days.

If within three years of the date of a compromise DOR determines that the taxpayer has an income or property sufficient to enable the taxpayer to pay the remainder of the tax, including costs, penalties and interest, DOR must reopen the matter and order the payment in full of such taxes, costs, penalties and interest. Before entering the order, however, DOR must provide the taxpayer with written notice advising the taxpayer of DOR's intention and fixing a time and place for the taxpayer to appear if the taxpayer desires a hearing. After entering the order, DOR is required to make a record of the principal amount of the taxes, and penalties, costs

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and interest, that are ordered to be paid and such taxes are immediately due, payable and subject to interest.

Under the bill, a compromise is effective if it is paid, in a lump sum, within ten days of the compromise or, a compromise is effective if it is paid within one year of the compromise if DOR agrees to a payment schedule. Also under the bill, DOR must reopen the matter within three years of the date of the final payment under a payment schedule and order full payment from the taxpayer if DOR determines that the taxpayer is able to pay the remainder of the tax and other costs.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 71.92 (3) of the statutes is amended to read:

2 71.92 (3) Any taxpayer may petition the department of revenue to compromise
3 his or her delinquent income or franchise taxes including the costs, penalties and
4 interest. ~~Such~~ The petition shall set forth a sworn statement of the taxpayer and
5 shall be in such a form as that the department ~~shall prescribe~~ prescribes and the
6 department may examine the petitioner under oath concerning the matter. If the
7 department finds that the taxpayer is unable to pay the taxes, costs, penalties and
8 interest in full it shall determine the amount the taxpayer is able to pay and shall
9 enter an order reducing such taxes, costs, penalties and interest in accordance with
10 such the determination. ~~Such~~ The order shall provide that such the compromise
11 ~~shall be, if paid in a lump sum, is~~ effective only if paid within 10 days or the order
12 shall provide that the compromise is effective if paid within one year if the
13 department agrees to set up a payment schedule. The department or its collection
14 agents upon receipt of such the order shall accept payment in accordance with the
15 order. Upon payment of the total amount due under the order, the department shall
16 credit the unpaid portion of the principal amount of such taxes and make appropriate
17 record of the unpaid amount of penalties, costs, and interest accrued to the date of

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1 ~~such the order.~~ If within 3 years of the date of ~~such the compromise order~~ or the date
2 of a final payment under a payment schedule, whichever is later, the department
3 ~~shall ascertain~~ ascertains that the taxpayer has an income or property sufficient to
4 enable the taxpayer to pay the remainder of the tax including costs, penalty and
5 interest the department shall reopen ~~said the matter~~ and order the payment in full
6 of such taxes, costs, penalties and interest. Before the entry of ~~such the order~~ a notice
7 shall be given to the taxpayer in writing advising of the intention of the department
8 of revenue to reopen ~~such the matter~~ and fixing a time and place for the appearance
9 of the taxpayer if the taxpayer desires a hearing. Upon entry of ~~such the order~~ the
10 department of revenue shall make an appropriate record of the principal amount of
11 ~~such the taxes, penalties, costs and interest ordered to be paid~~ and such taxes shall
12 be immediately due and payable and shall thereafter be subject to the interest
13 provided by s. 71.82 (2), and the department shall immediately proceed to collect the
14 same together with the unpaid portion of penalty, costs, and interest accrued to the
15 date of the compromise order.

16

(END)