



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3526/1

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1999 BILL

in 11-29-99

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re gen.

1 AN ACT to amend 71.10 (6) (a), 71.10 (6) (b), 71.10 (6m) (a) and 73.01 (4) (a); and
 2 to create 71.10 (6) (e), 71.10 (6m) (c), 73.03 (56), 73.03 (57), 73.13, 73.14, 73.15
 3 and 73.16 of the statutes; relating to: creating a taxpayer bill of rights and a
 4 taxpayer rights advocate, filing tax returns and paying taxes electronically,
 5 paying taxes in instalments, reducing nondelinquent taxes, tape-recording
 6 in-person interviews with the department of revenue, the liability of married
 7 persons filing a joint income tax return and making appropriations.

tax audits

Analysis by the Legislative Reference Bureau

This bill creates a taxpayer rights advocate whose duties include assisting taxpayers in resolving their complaints against the department of revenue (DOR) and coordinating the dissemination of DOR publications that inform taxpayers about state tax laws. The taxpayer rights advocate is also required to submit a report to each house of the legislature every two years summarizing the activities of the taxpayer rights advocate.

The bill also creates a number of duties for DOR with regard to taxpayers. For example, the bill requires DOR to ensure that its employees treat members of the public courteously, to ensure that during tax audits its employees provide a clear and concise statement of an assessment of additional taxes and to ensure that refunds are issued promptly.

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Under the bill, DOR may allow a person who is required to file a return with DOR or to pay an amount to DOR to file the return electronically or to pay the amount electronically. DOR may also enter into a written agreement with a person to pay taxes that are owed by the person in instalments. Under the bill, if DOR interviews a person regarding a tax matter, the person may tape-record the interview.

Under current law, any taxpayer may petition DOR to reduce delinquent taxes, including any applicable costs, penalties and interest. If DOR determines that the taxpayer is unable to pay in full the amount due, based on an examination of the taxpayer under oath, the taxpayer's financial statements and any other information required by DOR, DOR determines the amount that the taxpayer is able to pay and then enters an order reducing the taxes, costs, penalties and interest owed by the taxpayer.

If, within three years from the date on which DOR enters the order that reduces the taxpayer's taxes, DOR determines that the taxpayer has an income or owns property that is sufficient to enable the taxpayer to pay the remainder of the original delinquent taxes, including costs, penalties and interest, DOR must reopen the order and order the payment in full of such taxes, costs, penalties and interest.

This bill expands current law so that DOR is authorized to reduce any taxes, costs, penalties and interest that are due from a taxpayer, regardless of whether the taxes, costs, penalties and interest are delinquent.

Under current law, spouses that file a joint income tax return are both liable for the payment of any tax related to that return. However, DOR may relieve a person of any tax liability related to a joint return, in a manner specified by the Internal Revenue Code and adopted by this state. Generally, DOR may relieve a person of any tax liability related to a joint return if the person's spouse did not notify the person of any tax liability or understatement of taxes related to the joint return. This bill corrects an outdated reference to the sections of the Internal Revenue Code that relate to a spouse's tax liability for a joint income tax return. The bill also requires a spouse to apply for relief from tax liability within two years from the date on which DOR begins collection activities on the spouse's tax liability or within two years from the effective date of the provision, whichever is later.

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.** 71.10 (6) (a) of the statutes is amended to read:
2 71.10 (6) (a) *Joint returns.* Persons filing a joint return are jointly and severally
3 liable for the tax, interest, penalties, fees, additions to tax and additional
4 assessments under this chapter applicable to the return. ~~A~~ Except as provided in

BILL

1 par. (e), a person shall be relieved of liability in regard to a joint return in the manner
2 specified in section ~~6013 (e)~~ 6015 (a) to (d) and (f) of the ~~internal revenue code~~,
3 ~~notwithstanding the amount or percentage of the understatement~~ Internal Revenue
4 Code.

5 **SECTION 2.** 71.10 (6) (b) of the statutes is amended to read:

6 71.10 (6) (b) *Separate returns.* ~~A~~ Except as provided in par. (e), a spouse filing
7 a separate return may be relieved of liability for the tax, interest, penalties, fees,
8 additions to tax and additional assessments under this chapter ~~with regard to~~
9 ~~unreported marital property income~~ in the manner specified in section 66 (c) of the
10 ~~internal revenue code~~ Internal Revenue Code. The department may not apply ch.
11 766 in assessing a taxpayer with respect to marital property income the taxpayer did
12 not report if that taxpayer failed to notify the taxpayer's spouse about the amount
13 and nature of the income before the due date, including extensions, for filing the
14 return for the taxable year in which the income was derived. The department shall
15 include all of that marital property income in the gross income of the taxpayer and
16 exclude all of that marital property income from the gross income of the taxpayer's
17 spouse.

18 **SECTION 3.** 71.10 (6) (e) of the statutes is created to read:

19 71.10 (6) (e) *Application for relief.* A person who seeks relief from liability
20 under par. (a) or (b) shall apply for relief with the department, on a form prescribed
21 by the department, within 2 years after the date on which the department first
22 begins collection activities after the effective date of this paragraph [revisor
23 inserts date].

24 **SECTION 4.** 71.10 (6m) (a) of the statutes is amended to read:

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1 71.10 (6m) (a) ~~A~~ Except as provided in par. (c), a formerly married or remarried
2 person filing a return for a period during which the person was married may be
3 relieved of liability for the tax, interest, penalties, fees, additions to tax and
4 additional assessments under this chapter ~~for unreported marital property income~~
5 from that period as if the person were a spouse under section 66 (c) of the internal
6 revenue code Internal Revenue Code. The department may not apply ch. 766 in
7 assessing the former spouse of the person with respect to marital property income
8 that the former spouse did not report if that former spouse failed to notify the person
9 about the amount and nature of the income before the due date, including extensions,
10 for filing the return for the taxable year during which the income was derived. The
11 department shall include all of that marital property income in the gross income of
12 the former spouse and exclude all of that marital property income from the gross
13 income of the person.

14 **SECTION 5.** 71.10 (6m) (c) of the statutes is created to read:

15 71.10 (6m) (c) A person who seeks relief from liability under par. (a) shall apply
16 for relief with the department as provided under sub. (6) (e).

17 **SECTION 6.** 73.01 (4) (a) of the statutes is amended to read:

18 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
19 the commission shall be the final authority for the hearing and determination of all
20 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
21 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and, 70.995 (8), 73.13 and 73.16, s. 76.38 (12)
22 (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (h), 78.01, 78.22,
23 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78,
24 subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending
25 appeal there is filed with the commission a stipulation signed by the department of

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1 revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance,
 2 modification or reversal of the department's position with respect to some or all of the
 3 issues raised in the appeal, the commission shall enter an order affirming or
 4 modifying in whole or in part, or canceling the assessment appealed from, or allowing
 5 in whole or in part or denying the petitioner's refund claim, as the case may be,
 6 pursuant to and in accordance with the stipulation filed. No responsibility shall
 7 devolve upon the commission, respecting the signing of an order of dismissal as to
 8 any pending appeal settled by the department without the approval of the
 9 commission.

10 **SECTION 7.** 73.03 (56) of the statutes is created to read:

11 73.03 (56) (a) To ensure that its employees treat members of the public
12 courteously.

13 (b) To distribute to the public information about the state's tax laws.

14 (c) To provide employees to assist members of the public in filing state tax forms.

15 (d) To ensure that its employees treat members of the public fairly during tax
16 audits. ~~Such fair treatment~~ ^{during an audit, an employe} shall do ~~any~~ ^{all} of the following:

17 1. ~~Include~~ ^{Give the taxpayer} a clear and concise explanation of an assessment of ^{any} additional taxes.

18 2. ~~Include~~ ^{Give the taxpayer} a clear and concise explanation of a denial or reduction of ^{any} a refund
19 or credit that has been claimed by ~~a taxpayer~~ ^{the taxpayer}.

20 3. Allow ^{the} a taxpayer to consult with an attorney or an accountant or to postpone
21 an interview or an audit so that the taxpayer may consult an attorney or an
22 accountant.

23 (e) To provide for reasonable tax collection arrangements for taxpayers with an
24 outstanding tax liability.

25 **SECTION 8.** 73.03 (57) of the statutes is created to read:

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1 73.03 (57) To have a taxpayer rights advocate whose duties shall include the
2 following:

3 (a) Assisting a taxpayer in resolving the taxpayer's complaints against the
4 department.

5 (b) Recommending to the secretary of revenue legislation to simplify and
6 improve state tax laws, forms and procedures.

7 (c) Coordinating the dissemination of publications that inform taxpayers about
8 state tax laws.

9 (d) Submitting a report to the chief clerk of each house of the legislature for
10 distribution to the legislature under s. 13.172 (2) every 2 years, beginning on October
11 1, 2000, summarizing the activities of the taxpayer rights advocate's office.

12 **SECTION 9.** 73.13 of the statutes is created to read:

13 **73.13 Reducing nondelinquent taxes.** (1) In this section:

14 (a) "Department" means the department of revenue.

15 (b) "Tax" means an amount that is owed to this state under s. 66.75 (1m) (f) 3.
16 or ch. 71, 72, 76, 77, 78 or 139, and that is not delinquent.

17 (2) (a) A taxpayer may petition the department to reduce the taxpayer's taxes,
18 including the costs, penalties and interest related to the taxpayer's taxes. The
19 petition shall set forth a sworn statement of the taxpayer and shall be in a form that
20 the department prescribes. The department may examine the taxpayer under oath
21 about the petition and may require the taxpayer to provide the department with
22 financial statements and any other information requested by the department that
23 is related to the petition.

24 (b) If the department determines that the taxpayer is unable to pay the taxes,
25 costs, penalties and interest in full, the department shall determine the amount that

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1 the taxpayer is able to pay and shall enter an order reducing the taxes in accordance
2 with the department's determination. The order shall provide that the order is
3 effective only if the reduced taxes are paid within 10 days from the date on which the
4 order is issued. The department or its collection agents, upon receipt of the order,
5 shall accept payment in accordance with the order. Upon payment of the reduced
6 taxes, the department shall credit the unpaid portion of the principal amount of the
7 taxes and record the unpaid amount of costs, penalties, and interest accrued to the
8 date of the order.

9 (c) If within 3 years of the date of the order under par. (b) the department
10 ascertains that the taxpayer has an income or owns property sufficient to enable the
11 taxpayer to pay the unpaid portion of the principal amount of the taxes due,
12 including the costs, penalties and interest recorded under par. (b), the department
13 shall reopen the order under par. (b) and order the taxpayer to pay in full the unpaid
14 portion of the principal amount of the taxes due, including the costs, penalties and
15 interest recorded under par. (b). Before the entry of the order for payment, the
16 department shall send a written notice to the taxpayer, by certified mail, advising
17 the taxpayer of the department's intention to reopen the order under par. (b) and
18 fixing a time and place for the appearance of the taxpayer, if the taxpayer desires a
19 hearing. If the department determines that the taxpayer is able to pay the unpaid
20 portion of the principal amount of the taxes due, including the costs, penalties and
21 interest recorded under par. (b), the department shall enter the order for payment
22 in full. The unpaid portion of the principal amount of the taxes due, including the
23 costs, penalties and interest recorded under par. (b), shall be due and payable
24 immediately upon entry of the order for payment in full and shall thereafter be
25 subject to the interest under s. 71.82 (2), as that subsection applies to delinquent

BILL**SECTION 9**

1 income and franchise taxes under s. 71.82, and to the delinquent account fee under
2 s. 73.03 (33m).

3 (d) A taxpayer may appeal a decision under this subsection to the tax appeals
4 commission under s. 73.01.

5 **SECTION 10.** 73.14 of the statutes is created to read:

6 **73.14 Electronic filing.** The department of revenue may allow a person who
7 is required to file a return or a report with the department or to pay an amount to
8 the department to file the return or the report electronically or to pay the amount
9 electronically. If the department allows a person to remit taxes electronically that
10 are due monthly, the person shall submit the returns related to the taxes on or before
11 the last day of the month after the month in which the taxes are due.

12 **SECTION 11.** 73.15 of the statutes is created to read:

13 **73.15 Tape recording.** A taxpayer may tape-record any in-person interview
14 of the taxpayer that is conducted by an employe of the department of revenue about
15 the assessment or collection of taxes, if the taxpayer informs the employe, before the
16 interview, that the taxpayer is tape-recording the interview.

17 **SECTION 12.** 73.16 of the statutes is created to read:

18 **73.16 Instalment payments. (1)** The department of revenue may enter into
19 a written agreement with a taxpayer to pay in instalments any amount of taxes,
20 interest or penalties that are owed by the taxpayer.

21 **(2)** The department of revenue may terminate an agreement under sub. (1)
22 under any of the following conditions:

23 **(a)** The taxpayer gives the department inaccurate or incomplete information
24 related to an agreement under sub. (1).

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1 (b) The department determines that it cannot reasonably collect the amount
2 of taxes, interest or penalties that are subject to an agreement under sub. (1) as
3 provided in the agreement.

4 (3) The department of revenue may modify or terminate an agreement under
5 sub. (1) under any of the following conditions:

6 (a) The department determines that the financial condition of a taxpayer who
7 entered into an agreement under sub. (1) has changed significantly and the
8 department notifies the taxpayer, at least 30 days before modifying or terminating
9 the taxpayer's agreement, that the department is modifying or terminating the
10 taxpayer's agreement. A notice to a taxpayer under this paragraph shall specify the
11 basis for the department's determination that the taxpayer's financial condition has
12 changed significantly.

13 (b) The taxpayer who entered into an agreement under sub. (1) fails to pay an
14 instalment payment on time, to pay another obligation to the department on time or
15 to provide financial information that the department requests.

16 (4) A taxpayer may appeal a decision under sub. (2) or (3) to the tax appeals
17 commission under s. 73.01.

18 **SECTION 13. Appropriation changes; revenue.**

19 (1) TAXPAYER RIGHTS ADVOCATE. In the schedule under section 20.005 (3) of the
20 statutes for the appropriation to the department of revenue under section 20.566 (1)
21 (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by
22 \$34,000 for fiscal year 2000-01 to increase the authorized FTE positions of the
23 department by 1.0 GPR position on July 1, 2000, for a taxpayer rights advocate under
24 section 73.03 (57) of the statutes.

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Section #. 71.74 (2) (c) of the statutes is amended to read:

71.74 (2) (c) If it appears upon ^{an} ~~such~~ investigation ^{under par. (b)} that a person has been over or under assessed, or that no assessment has been made when one should have been made, the department shall make a correct assessment in the manner provided in this chapter.

History: 9 a. 31; 1991 a. 39; 1993 a. 205; 1997 a. 27. 1987 a. 312; 1989 a. 31; 1991 a. 39; 1993 a. 205; 1997 a. 27.

If, after an investigation under par. (b), the department determines that a person has been under assessed, or that no assessment has been made when one should have been made, the department shall verify the results of the investigation under par. (b) by using at least one income reconstruction method.

that is different than any income reconstruction method used for the investigation under par. (b)

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November 29, 1999

Senator Clausen:

Please review this draft carefully to ensure that it is consistent with your intent.

The amendment of section 71.74(2)(c) of the statutes, related to field audits, is based on my conversation with Steve Wilson.

JK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3526/2dn
JK;jlg:km

November 29, 1999

Senator Clausing:

Please review this draft carefully to ensure that it is consistent with your intent. The amendment of section 71.74 (2) (c) of the statutes, related to field audits, is based on my conversation with Steve Wilson.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

Kreye, Joseph

From: Wenzel, Bill
Sent: Wednesday, December 22, 1999 11:07 AM
To: Kreye, Joseph
Subject: RE: Taxpayer Bill of Rights (LRB 3526/2)

Thanks for the quick response. My view is that we delete provisions relating to both the Taxpayer Advocate and the Installment Payments. I don't think we want to open up the option of installments to "non-delinquent" taxes. I assume that would provide all taxpayers with the option of paying taxes on a yearly basis in installments which would make this proposal DOA over here.

Bill

-----Original Message-----

From: Kreye, Joseph
Sent: Wednesday, December 22, 1999 10:36 AM
To: Wenzel, Bill; Rhodes, Terry
Cc: Clausing, Alice; Fredrickson, Shirley; Sherman, Julia
Subject: RE: Taxpayer Bill of Rights (LRB 3526/2)

Happy Holidays--

The "installment provisions" of LRB 3526/2 are broader than those of SB 161. The provisions of SB 161 apply only to installments of **delinquent income and franchise taxes**. The installment provisions of LRB 3526/2, on the other hand, apply to **any taxes, regardless of whether or not the taxes are delinquent**. Therefore, although the respective provisions are not "duplicates", the provisions of LRB 3526/2 do seem to make redundant the installment provisions of SB 161. If you like, I could change LRB 3526/2 so that the installment provisions apply only to nondelinquent taxes.

Should I wait until I hear back from you regarding any change to the installment provisions before I delete the advocate position from the bill? Please contact me if you have any questions.

Joseph T. Kreye, Legislative Attorney
Legislative Reference Bureau
(608) 266-2263
joseph.kreye@legis.state.wi.us

-----Original Message-----

From: Wenzel, Bill
Sent: Wednesday, December 22, 1999 9:35 AM
To: Kreye, Joseph; Rhodes, Terry
Cc: Clausing, Alice; Fredrickson, Shirley; Sherman, Julia
Subject: Taxpayer Bill of Rights (LRB 3526/2)

Seasons Greetings - -

After taking a closer look at the Bill Draft we have decided to eliminate the provisions regarding the Taxpayer Advocate. We decided that DOR was not an appropriate place to house this individual and DOJ advised us that they would need to obtain "special legal status" if they were to put the Advocate in their shop. That being the case we will seek to develop the Advocate program in separate legislation at a later date in time.

Could you also take a look at SB 161. This measure passed the Senate and contains provisions regarding Installment Payments. We'd like your opinion regarding whether this is a "duplication" of effort AND if we decide to leave the provisions - whether they would trigger a referral to Joint Finance.

Thanks much.

Bill Wenzel
266-7745

Kreye, Joseph

From: Wenzel, Bill
Sent: Wednesday, December 22, 1999 5:02 PM
To: Kreye, Joseph
Subject: Taxpayer Bill of Rights (LRB 3526/2)

Hi Joe (Sorry I ran out of seasonal salutations)

I just got off the phone with Terry Rhodes. Terry indicated that the Installment Payment provisions of SB 161 will not trigger a referral to JFC. That being the case I'd like to substitute those provisions for the ones contained in LRB 3526/2. I think Installment Payments are a vital piece of this legislation and since other provisions regarding *liability of spouses* and *tax audits* may ultimately trigger a referral to JFC we might as well include the SB 161 Installment Payment language.

Please go ahead and complete the drafting. Terry will take a last look at it before we introduce it, but I don't want to carve out too much of the substance just to avoid JFC.

Thanks for all your assistance!

Sincerely,
Bill Wenzel

*add analysis language (and
eff. date ?) from SB161 or well.*



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3526/2
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1999 BILL

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in 12-27-99

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1 **AN ACT to amend** 71.10 (6) (a), 71.10 (6) (b), 71.10 (6m) (a), 71.74 (2) (c) and 73.01
 2 (4) (a); and **to create** 71.10 (6) (e), 71.10 (6m) (c), 73.03 (56), 73.03 (57), 73.13,
 3 73.14, 73.15 and 73.16 of the statutes; **relating to:** creating a taxpayer bill of
 4 rights ~~and a taxpayer rights advocate,~~ filing tax returns and paying taxes
 5 electronically, paying taxes in instalments, reducing nondelinquent taxes,
 6 tape-recording in-person interviews with the department of revenue, the
 7 liability of married persons filing a joint income tax return, tax audits and
 8 making appropriations.

Analysis by the Legislative Reference Bureau

This bill creates a taxpayer rights advocate whose duties include assisting taxpayers in resolving their complaints against the department of revenue (DOR) and coordinating the dissemination of DOR publications that inform taxpayers about state tax laws. The taxpayer rights advocate is also required to submit a report to each house of the legislature every two years summarizing the activities of the taxpayer rights advocate.

The bill ~~also~~ creates a number of duties for ^{the department of revenue} (DOR) with regard to taxpayers. For example, the bill requires DOR to ensure that its employees treat members of the public courteously, to ensure that during tax audits its employees provide a clear and

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concise statement of an assessment of additional taxes and to ensure that refunds are issued promptly.

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This bill expands current law so that DOR is authorized to reduce any taxes, costs, penalties and interest that are due from a taxpayer, regardless of whether the taxes, costs, penalties and interest are delinquent.

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Under current law, spouses that file a joint income tax return are both liable for the payment of any tax related to that return. However, DOR may relieve a person of any tax liability related to a joint return, in a manner specified by the Internal Revenue Code and adopted by this state. Generally, DOR may relieve a person of any tax liability related to a joint return if the person's spouse did not notify the person of any tax liability or understatement of taxes related to the joint return. This bill corrects an outdated reference to the sections of the Internal Revenue Code that relate to a spouse's tax liability for a joint income tax return. The bill also requires a spouse to apply for relief from tax liability within two years from the date on which DOR begins collection activities on the spouse's tax liability or within two years from the effective date of the provision, whichever is later.

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

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1 71.10 (6m) (a) ~~A Except as provided in par. (c), a~~ formerly married or remarried
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5 from that period as if the person were a spouse under section 66 (c) of the ~~internal~~
6 ~~revenue code~~ Internal Revenue Code. The department may not apply ch. 766 in
7 assessing the former spouse of the person with respect to marital property income
8 that the former spouse did not report if that former spouse failed to notify the person
9 about the amount and nature of the income before the due date, including extensions,
10 for filing the return for the taxable year during which the income was derived. The
11 department shall include all of that marital property income in the gross income of
12 the former spouse and exclude all of that marital property income from the gross
13 income of the person.

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15 71.10 (6m) (c) A person who seeks relief from liability under par. (a) shall apply
16 for relief with the department as provided under sub. (6) (e).

17 **SECTION 6.** 71.74 (2) (c) of the statutes is amended to read:

18 71.74 (2) (c) If it appears upon ~~such an~~ investigation under par. (b) that a person
19 has been over or under assessed, or that no assessment has been made when one
20 should have been made, the department shall make a correct assessment in the
21 manner provided in this chapter. If, after an investigation under par. (b), the
22 department determines that a person has been under assessed, or that no
23 assessment has been made when one should have been made, the department shall
24 verify the results of the investigation under par. (b) by using at least one income

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1 reconstruction method that is different than any income reconstruction method used
2 for the investigation under par. (b).

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6 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
7 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and, 70.995 (8), ~~73.13~~ and ~~77.46~~ s. 76.38 (12)
8 (a), 1998 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22,
9 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78,
10 subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending
11 appeal there is filed with the commission a stipulation signed by the department of
12 revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance,
13 modification or reversal of the department's position with respect to some or all of the
14 issues raised in the appeal, the commission shall enter an order affirming or
15 modifying in whole or in part, or canceling the assessment appealed from, or allowing
16 in whole or in part or denying the petitioner's refund claim, as the case may be,
17 pursuant to and in accordance with the stipulation filed. No responsibility shall
18 devolve upon the commission, respecting the signing of an order of dismissal as to
19 any pending appeal settled by the department without the approval of the
20 commission.

21 **SECTION 8.** 73.03 (56) of the statutes is created to read:

22 73.03 (56) (a) To ensure that its employees treat members of the public
23 courteously.

24 (b) To distribute to the public information about the state's tax laws.

25 (c) To provide employees to assist members of the public in filing state tax forms.

BILL**SECTION 8**

1 (d) To ensure that its employees treat members of the public fairly during tax
2 audits. During an audit, an employee shall do all of the following:

3 1. Give the taxpayer a clear and concise explanation of an assessment of any
4 additional taxes.

5 2. Give the taxpayer a clear and concise explanation of a denial or reduction
6 of any refund or credit that has been claimed by the taxpayer.

7 3. Allow the taxpayer to consult with an attorney or an accountant or to
8 postpone an interview or an audit so that the taxpayer may consult an attorney or
9 an accountant.

10 (e) To provide for reasonable tax collection arrangements for taxpayers with an
11 outstanding tax liability.

12 **SECTION 9.** 73.03 (57) of the statutes is created to read:

13 73.03 (57) To have a taxpayer rights advocate whose duties shall include the
14 following:

15 (a) Assisting a taxpayer in resolving the taxpayer's complaints against the
16 department.

17 (b) Recommending to the secretary of revenue legislation to simplify and
18 improve state tax laws, forms and procedures.

19 (c) Coordinating the dissemination of publications that inform taxpayers about
20 state tax laws.

21 (d) Submitting a report to the chief clerk of each house of the legislature for
22 distribution to the legislature under s. 13.172 (2) every 2 years, beginning on October
23 1, 2000, summarizing the activities of the taxpayer rights advocate's office.

24 **SECTION 10.** 73.13 of the statutes is created to read:

25 **73.13 Reducing nondelinquent taxes.** (1) In this section:

BILL

1 (a) "Department" means the department of revenue.

2 (b) "Tax" means an amount that is owed to this state under s. 66.75 (1m) (f) 3.
3 or ch. 71, 72, 76, 77, 78 or 139, and that is not delinquent.

4 (2) (a) A taxpayer may petition the department to reduce the taxpayer's taxes,
5 including the costs, penalties and interest related to the taxpayer's taxes. The
6 petition shall set forth a sworn statement of the taxpayer and shall be in a form that
7 the department prescribes. The department may examine the taxpayer under oath
8 about the petition and may require the taxpayer to provide the department with
9 financial statements and any other information requested by the department that
10 is related to the petition.

11 (b) If the department determines that the taxpayer is unable to pay the taxes,
12 costs, penalties and interest in full, the department shall determine the amount that
13 the taxpayer is able to pay and shall enter an order reducing the taxes in accordance
14 with the department's determination. The order shall provide that the order is
15 effective only if the reduced taxes are paid within 10 days from the date on which the
16 order is issued. The department or its collection agents, upon receipt of the order,
17 shall accept payment in accordance with the order. Upon payment of the reduced
18 taxes, the department shall credit the unpaid portion of the principal amount of the
19 taxes and record the unpaid amount of costs, penalties, and interest accrued to the
20 date of the order.

21 (c) If within 3 years of the date of the order under par. (b) the department
22 ascertains that the taxpayer has an income or owns property sufficient to enable the
23 taxpayer to pay the unpaid portion of the principal amount of the taxes due,
24 including the costs, penalties and interest recorded under par. (b), the department
25 shall reopen the order under par. (b) and order the taxpayer to pay in full the unpaid

BILL**SECTION 10**

1 portion of the principal amount of the taxes due, including the costs, penalties and
2 interest recorded under par. (b). Before the entry of the order for payment, the
3 department shall send a written notice to the taxpayer, by certified mail, advising
4 the taxpayer of the department's intention to reopen the order under par. (b) and
5 fixing a time and place for the appearance of the taxpayer, if the taxpayer desires a
6 hearing. If the department determines that the taxpayer is able to pay the unpaid
7 portion of the principal amount of the taxes due, including the costs, penalties and
8 interest recorded under par. (b), the department shall enter the order for payment
9 in full. The unpaid portion of the principal amount of the taxes due, including the
10 costs, penalties and interest recorded under par. (b), shall be due and payable
11 immediately upon entry of the order for payment in full and shall thereafter be
12 subject to the interest under s. 71.82 (2), as that subsection applies to delinquent
13 income and franchise taxes under s. 71.82, and to the delinquent account fee under
14 s. 73.03 (33m).

15 (d) A taxpayer may appeal a decision under this subsection to the tax appeals
16 commission under s. 73.01.

17 **SECTION 11.** 73.14 of the statutes is created to read:

18 **73.14 Electronic filing.** The department of revenue may allow a person who
19 is required to file a return or a report with the department or to pay an amount to
20 the department to file the return or the report electronically or to pay the amount
21 electronically. If the department allows a person to remit taxes electronically that
22 are due monthly, the person shall submit the returns related to the taxes on or before
23 the last day of the month after the month in which the taxes are due.

24 **SECTION 12.** 73.15 of the statutes is created to read:

BILL

1 **73.15 Tape recording.** A taxpayer may tape-record any in-person interview
2 of the taxpayer that is conducted by an employe of the department of revenue about
3 the assessment or collection of taxes, if the taxpayer informs the employe, before the
4 interview, that the taxpayer is tape-recording the interview.

5 ~~**SECTION 13.** 73.16 of the statutes is created to read:~~

6 ~~**73.16 Instalment payments.** (1) The department of revenue may enter into~~
7 ~~a written agreement with a taxpayer to pay in instalments any amount of taxes,~~
8 ~~interest or penalties that are owed by the taxpayer.~~

9 ~~(2) The department of revenue may terminate an agreement under sub. (1)~~
10 ~~under any of the following conditions:~~

11 ~~(a) The taxpayer gives the department inaccurate or incomplete information~~
12 ~~related to an agreement under sub. (1).~~

13 ~~(b) The department determines that it cannot reasonably collect the amount~~
14 ~~of taxes, interest or penalties that are subject to an agreement under sub. (1) as~~
15 ~~provided in the agreement.~~

16 ~~(3) The department of revenue may modify or terminate an agreement under~~
17 ~~sub. (1) under any of the following conditions:~~

18 ~~(a) The department determines that the financial condition of a taxpayer who~~
19 ~~entered into an agreement under sub. (1) has changed significantly and the~~
20 ~~department notifies the taxpayer, at least 30 days before modifying or terminating~~
21 ~~the taxpayer's agreement, that the department is modifying or terminating the~~
22 ~~taxpayer's agreement. A notice to a taxpayer under this paragraph shall specify the~~
23 ~~basis for the department's determination that the taxpayer's financial condition has~~
24 ~~changed significantly.~~

BILL

1 ~~(b) The taxpayer who entered into an agreement under sub. (1) fails to pay an~~
2 ~~instalment payment on time, to pay another obligation to the department on time or~~
3 ~~to provide financial information that the department requests.~~

4 ~~(4) A taxpayer may appeal a decision under sub. (2) or (3) to the tax appeals~~
5 ~~commission under s. 73.01.~~

SECTION 14. Appropriation changes; revenue.

7 (1) TAXPAYER RIGHTS ADVOCATE. In the schedule under section 20.005 (3) of the
8 statutes for the appropriation to the department of revenue under section 20.566 (1)
9 (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by
10 \$34,000 for fiscal year 2000–01 to increase the authorized FTE positions of the
11 department by 1.0 GPR position on July 1, 2000, for a taxpayer rights advocate under
12 section 73.03 (57) of the statutes.

13 (2) TAXPAYER RIGHTS SUPPORT STAFF. In the schedule under section 20.005 (3) of
14 the statutes for the appropriation to the department of revenue under section 20.566
15 (1) (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased
16 by \$28,000 for fiscal year 2000–01 to increase the authorized FTE positions of the
17 department by 1.0 GPR position on July 1, 2000, for the performance of support
18 services for the taxpayer rights advocate under section 73.03 (57) of the statutes.

19 (3) TAXPAYER RIGHTS OFFICE. In the schedule under section 20.005 (3) of the
20 statutes for the appropriation to the department of revenue under section 20.566 (3)
21 (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by
22 \$19,500 for fiscal year 2000–01 to rent and set up office space and provide supplies
23 for the taxpayer rights advocate and the advocate's support staff.

→ 24 **SECTION 15. Initial applicability.**

3526/3dn
JK:jl
JJ

DN
December 27, 1999

Senator Clausen:

Please review this draft carefully to ensure that it is consistent with your intent. This draft reflects the changes suggested by Bill Wenzel.

JK

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

INSERT A3



SENATE BILL 161

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.

INSERT
A-3

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~~ 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

INSERT 2-1

INSERT
2-1

SENATE BILL 161

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 insert) (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3526/3dn
JK:jl:km

December 27, 1999

Senator Clausing:

Please review this draft carefully to ensure that it is consistent with your intent. This draft reflects the changes suggested by Bill Wenzel.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

Kreye, Joseph

From: Wenzel, Bill
Sent: Friday, January 07, 2000 1:48 PM
To: Kreye, Joseph
Subject: Taxpayer Bill of Rights (LRB 3526/3)

Dear Joe - -

I was taking a final look at the last draft and realized that there is still a reference to the Taxpayer Advocate position. My last round of emails probably confused the issue, but we decided to eliminate the Taxpayer Advocate due to the fact that we did not want it housed at DOR and DOJ indicated that we would need to establish "special legal status" in order to put it in their shop. Could you remove the reference at pages 7,8 @ Section 10.

Thanks,
Bill