

1999 DRAFTING REQUEST

Bill

Received: **10/22/98**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-8593**

By/Representing: **Holden**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies: **JK**

Topic:

DOA:.....Holden - Increase sales and use tax late filing fee

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	shoveme 11/13/98	gilfokm 11/13/98	lpaasch 11/16/98	_____	lrb_docadmin 11/16/98		State
/P2	shoveme 01/12/99	gilfokm 01/12/99	ismith 01/13/99	_____	lrb_docadmin 01/13/99		State

FE Sent For:

<END>

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1 P2 MES 1/2/99
FE Sent For: *11/2/99*
smg

IS
1/13/99

IS/LP
1/13/99

<END>

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/P1	shoveme	11-13 <i>Kmg</i>	11-16LP	11-16LP <u>IS</u>	Submit		
<i>11 MES 11/13</i>							

FE Sent For:

<END>

Wisconsin Department of Revenue
IS&E Division
August 13, 1998

TITLE: Increase Sales and Use Tax Late Filing Fee

DESCRIPTION OF CURRENT LAW AND PROBLEM:

Section 77.60(2)(intro.) provides that delinquent sales and use tax returns are subject to a \$10 late filing fee unless the return was not timely filed because of the death of the person required to file or unless the return was not timely filed because of a reasonable cause and not because of neglect.

This late filing fee is too small to deter persons from filing delinquent sales and use tax returns. We have received the following numbers of late-filed sales and use tax returns over the years:

1994-95	84,516
1995-96	75,431
1996-97	91,985
1997-98	84,503

A higher late filing fee is more reflective of our costs in issuing an estimated assessment to encourage filing of the actual return (printing, postage, computer time, mailroom labor and return envelopes). The late filing fee should cover these costs; the general taxpaying public should not have to subsidize late filers.

Also, the sales tax is a trust fund tax. Section 77.60(11), Wis. Stats., provides that "whenever a person collects tax moneys imposed under s. 77.52, 77.53 or 77.71 from a consumer, user or purchaser, the person receives those tax moneys as trust funds and state property." Many states require the retailer to transmit these trust fund taxes to the state sooner than what Wisconsin does. For example, Illinois requires weekly payments.

Section 71.83(3), Wis. Stats., as amended by 1997 Act 237, provides a \$30 late filing fee for a late employer withholding and deposit report. The same section provides for a \$30 late filing fee for a late corporation franchise/income tax return and a \$30 late filing fee for a late individual income tax return filed 60 or more days late (\$5 for less than 60 days).

RECOMMENDATION:

Increase the sales and use tax late filing fee from \$10 to \$30. A \$30 late filing fee is reasonable for retailers who don't transmit state property on time.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0622/P1

MES... King

DOA:.....Holden - Increase sales and use tax late filing fee

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

SOON

do not
gen

1 AN ACT... relating to: increasing the sales and use tax late filing fee.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Under current law, delinquent sales and use tax returns are subject to a \$10 late filing fee unless the return was not timely filed because of the death of the person required to file or because of reasonable cause, but not because of neglect. This bill changes the late filing fee to \$30 for returns that are filed for periods beginning after August 31, 1999.

This increased late filing fee is equal to the late filing fee for a late employer withholding and deposit report, a late corporation franchise and income tax return and a late individual income tax return that is at least 60 days late.

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:

2 SECTION 1. 77.60 (2) (intro.) of the statutes is amended to read:

3 77.60 (2) (intro.) Delinquent sales and use tax returns shall be subject to a \$10

4 \$30 late filing fee unless the return was not timely filed because of the death of the

1 person required to file or unless the return was not timely filed because of a
2 reasonable cause and not because of neglect. The fee shall not apply if the
3 department has failed to issue a seller's permit or a use tax registration within 30
4 days of the receipt of an application for a seller's permit or use tax registration
5 accompanied by the fee established under s. 73.03 (50), if the person does not hold
6 a valid certificate under s. 73.03 (50), and the security required under s. 77.61 (2).
7 Delinquent sales and use taxes shall bear interest at the rate of 1.5% per month until
8 paid. The taxes imposed by this subchapter shall become delinquent if not paid:

History: 1975 c. 39, 186; 1979 c. 110 s. 60 (13); 1979 c. 221, 230; 1981 c. 20; 1983 a. 27; 1985 a. 29; 1987 a. 399; 1991 a. 39, 269, 316; 1993 a. 16, 112, 408, 437; 1995 a. 27, 428; 1997 a. 237, 314.

9 **SECTION 9343. Initial applicability; revenue.**

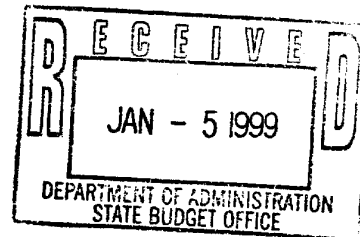
10 (1) SALES AND USE TAX LATE FILING FEE. The treatment of section 77.60 (2) (intro.)
11 of the statutes first applies to returns that are filed for periods beginning after
12 August 31, 1999.

13 (END)

CORRESPONDENCE/MEMORANDUM

**STATE OF WISCONSIN
Department of Revenue**

Date: January 4, 1999
To: Kerry Holden
State Budget Office, DOA
From: Clay Seth
Policy Advisor, DOR
Subject: LRB Draft 0622/P1 – Increase sales and use tax late filing fee



The Department of Revenue requests the following changes to the language of the statute:

- 1) The phrase in the first sentence should be changed to read: "...the return was not timely filed due to good cause and not due to neglect..."
- 2) The phrase in the second sentence should be changed to read: "...and the security required under s. 77.61(2) has not been placed with the department."
- 3) The initial applicability date should be changed to coincide with the quarter ending September 30, 1999 rather than August 31, 1999.

I have attached a copy of the proposal with the requested changes. If you have any questions please contact me at 6-8920. Thank you.

cc Marc Weinberger
Diane Hardt

C. Smith
T. Reilly
J. De
Return

DOA:.....Holden - Increase sales and use tax late filing fee

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: increasing the sales and use tax late filing fee.

Analysis by the Legislative Reference Bureau

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3 department has failed to issue a seller's permit or a use tax registration within 30
4 days of the receipt of an application for a seller's permit or use tax registration
5 accompanied by the fee established under s. 73.03 (50), if the person does not hold
6 a valid certificate under s. 73.03 (50), and the security required under s. 77.61 (2) ^{has}
7 ~~NOT BEEN PLACED WITH THE DEPARTMENT.~~ Delinquent sales and use taxes shall bear interest at the rate of 1.5% per month until
8 paid. The taxes imposed by this subchapter shall become delinquent if not paid:

9 **SECTION 9343. Initial applicability; revenue.**

10 (1) SALES AND USE TAX LATE FILING FEE. The treatment of section 77.60 (2) (intro.)
11 of the statutes first applies to returns that are filed for periods beginning after
12 ^{SEPTEMBER 30,}
~~August 31, 1999.~~

13 (END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0622/P1
MES:kmg

RMP

DOA:.....Holden - Increase sales and use tax late filing fee

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

do not pass

1 AN ACT ...; relating to: increasing the sales and use tax late filing fee.

September 30

Analysis by the Legislative Reference Bureau

TAXATION

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This increased late filing fee is equal to the late filing fee for a late employer withholding and deposit report, a late corporation franchise and income tax return and a late individual income tax return that is at least 60 days late.

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 13

(END)

has not been placed with the
department



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0622/P2
MES:kmg:ijs

DOA:.....Holden - Increase sales and use tax late filing fee

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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14 of the statutes first applies to returns that are filed for periods beginning after
15 September 30, 1999.

16 (END)

NOTE TO DRAFTING FILE for LRB-0622:

Per the drafter, this draft has been redrafted to a “/1” as no problems remain in the draft that require resolution before introduction of the budget bill. There are no changes between the “/PX” and the “/1.”

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