

1999 DRAFTING REQUEST

Bill

Received: **10/26/98**

Received By: **dykmapj**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-5468**

By/Representing: **Ziegler**

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

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Tax - property**

Extra Copies:

Topic:

DOA:.....Ziegler - Revise penalty for not reporting exempt computer property

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 11/10/98			_____			
/1	dykmapj 01/15/99	jgeller 01/15/99	martykr 01/15/99	_____	lrb_docadmin 01/15/99		S&L
/2	dykmapj 01/22/99	jgeller 01/23/99	hhagen 01/25/99	_____	lrb_docadmin 01/25/99		S&L
/3	dykmapj 01/28/99	jgeller 01/28/99	hhagen 01/29/99	_____	gretskl 01/29/99		S&L

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<END>

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1/3/28 jg # 1/29 # 1/15/29

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/P1	shoveme	11/14 jlg	11/15 km	11/15 dg	11/15		

FE Sent For:

<END>

Wisconsin Department of Revenue
Division of Research and Analysis
Bureau of Local Fiscal Policy

September 22, 1998

TITLE: Property Tax – Penalty for Not Reporting Exempt Computer Property

DESCRIPTION OF CURRENT LAW AND PROBLEM

1997 Act 237 requires the state to compensate taxing jurisdictions for the reduction in tax base due to the computer property tax exemption. To determine the state payment to the taxing jurisdiction, the act requires owners of exempt computer property to report the value of that property on their personal property returns.

The act imposes a forfeiture of \$10 per \$100 of unreported exempt value to encourage compliance in reporting exempt property. The forfeiture is 4 times as much as the tax would be, if the property were taxable. A lesser penalty could still encourage compliance without being punitive.

Act 237 is silent regarding the administration and disposition of forfeitures. Administration by the Department of Revenue may minimize administrative costs, and forfeitures could be used as program revenue to recover such costs.

The term "forfeit" is unusual in a tax statute; it is typically used in criminal law whereas the term "penalty" is more common in tax law.

RECOMMENDATION FOR ACTION

Amend the forfeiture provision as follows:

1. Provide a penalty of \$10 per \$1,000 of unreported value.
2. Require the taxation district clerk to notify the Department of Revenue (DOR) of instances of unreported property. Require DOR to audit and, where appropriate, adjust computer — 7306(3) compensation payment amounts and assess the penalty. Proceeds can be used as program revenue to recover administrative costs.
3. Use the term "penalty" rather than "forfeiture".

FISCAL/ADMINISTRATIVE IMPACT

Reducing the forfeiture may reduce total forfeitures by a very small amount.

The proposal clarifies current law as regards failure to report exempt computer property and so will facilitate administration of the law.

DRAFTING INSTRUCTIONS

See recommendation.

EFFECTIVE DATE OR INITIAL APPLICABILITY

Retroactive to January 1, 1999.

PERSON TO CONTACT: Blair P. Kruger, 266-1310

BPK:skr
t:\bud\bk\nonreporting.bud



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0770/1

PJD...:1:...

JLg

TUES A.M.

DOA:.....Ziegler - Revise penalty for not reporting exempt computer property

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not get

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION ✓

PROPERTY TAXATION ✓

STAT.

Under current law, a person that fails to include information on computer property that is exempt from property taxes on a report must forfeit \$10 for every \$100 that is not reported. This bill provides instead that the person must pay a penalty of \$10 for every \$1,000 that is not reported and appropriates the penalty to the department of revenue (DOR) for the administration of the computer exemption and state aid for the exemption. The bill also requires the taxing municipality to provide information to DOR regarding errors in reporting computer property.

For further information see the *state and local* 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. 20.566 (2) (gp) ^x of the statutes is created to read:

1 20.566 (2) (gp) [✓]Administration of computer exemption and state aid. All moneys
 2 received from penalties paid under s. 70.36 (1m) [✓] for the administration of the
 3 computer exemption and state aid payments under s. 79.095. [✓]

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: Do you want to appropriate the penalties for this purpose? The request stated "Proceeds can be used as program revenue to recover administrative costs."

4 **SECTION 2.** 70.36 (1m) [✓] of the statutes is amended to read:

5 70.36 (1m) Any person, firm or corporation that fails to include information on
 6 property that is exempt under s. 70.11 (39) on the report under s. 70.35 shall forfeit
 7 pay a penalty of \$10 for every \$100 \$1,000 [✓] or major fraction thereof that is not
 8 reported.

History: 1973 c. 90; 1991 a. 156, 316; 1997 a. 237.

9 **SECTION 3.** 79.095 (2) (c) [✓] of the statutes is created to read:

10 79.095 (2) (c) On or before September 1, [✓] any property that is exempt under s.
 11 70.11 (39) [✓] that has been omitted or not assessed according to law or any errors
 12 discovered by the assessor, board of review, clerk or any other officer or employe of
 13 the municipality or any other person in identifying or valuing property that is
 14 exempt under s. 70.11 (39). [✓]

79.095

****NOTE: Please check this. I took the language from s. 73.06 (3), stats. Do we need all of the language? Is September 1 appropriate? That provision plus s. ~~70.095~~ (3), stats, also covers the part of this request to "require DOR to audit and adjust computer compensation payment amounts".

15 **SECTION 9343. Initial applicability; revenue.** [✓]

16 (1) FAILURE TO REPORT INFORMATION REGARDING COMPUTER EXEMPTION. The
 17 treatment of sections ~~70.36~~ (1m) [✓] of the statutes first applies to failures to include
 18 information on property that is exempt under ~~s~~ ^{section} 70.11 (39) ^{of the statutes} on a report under ~~s~~ ^{section} 70.35 ^{section}
 19 made on January 1, 1999. [✓]

****NOTE: Please check this. If a person has already paid a forfeiture before the effective date of the provision I don't know how to undo it. It is in the school fund. If the

forfeiture has not been paid by the effective date for a report made in 1999, this draft provides that the person is to pay a penalty of one-tenth of the amount of the forfeiture now on the books and appropriates all of the money paid to the DOR. OK?

1

(END) ✓

Dykman, Peter

From: Ziegler, Paul
Sent: Friday, January 22, 1999 3:48 PM
To: Dykman, Peter
Subject: Changes to draft 0770/1 - penalty for not reporting computer property

Please make the following changes to draft 0770/1 revising the penalty for failure to report exempt computer property:

- 1) Drop the Department of Revenue appropriation. (section 1)
- 2) Regarding Section 3 -- I believe the September 1st date is OK but I will check with DOR on this.
- 3) Amend s.79.095(3) so that DOR will use both the information submitted under (2)(a) (the May 1 reports of exempt computer value) and the newly created (2)(c) (for amounts of "newly" identified computer property) to determine the October 1 DOR report of exempt computer value.
- 4) Regarding initial applicability. Should this be changed to say that the new penalty first applies to valuations as of the January 1 after passage? Alternatively, line 19 of page 2 could be changed to read "report under s.70.35 of the statutes THAT RELATES TO January 1, 1999." (The report is due March 1st for the value of property as of January 1st -- pursuant to s.70.35(2) and (3).)
- 5) Question: Can the s.70.36(1m) penalty for not reporting exempt value be deposited to the general fund to partially and indirectly offset the payments from the general fund to local governments? Or, does Article X Section 2 of the Wis. Constitution prohibit such an allocation?

THANK YOU for your help.
Please email me or call with any questions.
work phone 6-5668
home phone 273-2529



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0770/1
PJD:jlg:km

Handwritten initials and signature

DOA:.....Ziegler - Revise penalty for not reporting exempt computer property

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

Handwritten signature

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1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, a person that fails to include information on computer property that is exempt from property taxes on a report must forfeit \$10 for every \$100 that is not reported. This bill provides instead that the person must pay a penalty of \$10 for every \$1,000 that is not reported and appropriates the penalty to the department of revenue (DOR) for the administration of the computer exemption and stays it for the exemption. The bill also requires the taxing municipality to provide information to DOR regarding errors in reporting computer property.

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

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13 the municipality or any other person in identifying or valuing property that is
14 exempt under s. 70.11 (39).

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18 information on property that is exempt under section 70.11 (39) of the statutes on a
19 report under section 70.35 of the statutes made on January 1, 1999.

****NOTE: Please check this. If a person has already paid a forfeiture before the effective date of the provision I don't know how to undo it. It is in the school fund. If the forfeiture has not been paid by the effective date for a report made in 1999, this draft

Handwritten notes: Check with our legal counsel on whether this can go into the general fund.

Section

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THANK YOU for your help.
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work phone 6-5668
home phone 273-2529

Dykman, Peter

From: Ziegler, Paul
Sent: Thursday, January 28, 1999 3:08 PM
To: Dykman, Peter
Subject: Changes to draft 0770/2 - penalty for not reporting computer property

Peter -- Please make the following four changes to draft 0770/2 regarding the penalty for not reporting computer property.

1. In section 1, retain the term "forfeit" rather than amending the paragraph to use the term "penalty".
2. At the end of section 1 (page 2, line 2) before the period add "for the current or the previous two years". This matches the maximum time period for which penalties can apply to the time limit for adjustments to taxable value under s.70.44.
3. Drop Section 2 out of the draft.
4. Instead of section 2, amend the s.79.095(2)(a) as suggested below:

~~(2)(a) On or before May 1, the value of the computers that are exempt under s. 70.11 (39) in each taxing jurisdiction for which the municipality assesses property, including property not reported in either of the two prior years.~~

This will match the adjustment period for aid payments on municipally assessed property also to the period to adjust taxable value under s.70.44.

THANK YOU.

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

From: Dykman, Peter
Sent: Friday, January 22, 1999 4:28 PM
To: Ziegler, Paul
Subject: RE: Changes to draft 0770/1 - penalty for not reporting computer property

As to point #5: I not know if it has to be deposited in the school fund. Current language seems to require it, but the new version may avoid it. The DOR seems to think that tax penalties don't have to go into the school fund. You may wish to ask their legal counsel. PJD

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

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State of Wisconsin
1999 - 2000 LEGISLATURE

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LRB-0770/2
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plain

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~~****NOTE: Section 79.095 (3), stats., also covers the part of this request to "require
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13 report under section 70.35 of the statutes that relates to January 1, 1999.

14 (END) [✓]



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0770/3

PJD;jlg:hmh

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