

October 1999 Special Session
Assembly Bill 1

Date of enactment: November 16, 1999
Date of publication*: November 18, 1999

1999 WISCONSIN ACT 10

(Vetoed in Part)

AN ACT to repeal 71.07 (9) (b) 3. and 71.07 (9) (g); to amend 71.07 (9) (b) 1.; to create 20.835 (2) (am), 71.07 (9) (b) 4. and 77.64 of the statutes; and to affect 1999 Wisconsin Act 9, section 9143 (3g); relating to: creating a tax rebate for individuals, repealing the school property tax rent credit, reducing the amount that is available under the school levy tax credit and making an appropriation.

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

SECTION 1. 20.835 (2) (am) of the statutes is created to read:

20.835 (2) (am) *Onetime rebate of nonbusiness consumer sales tax.* A sum sufficient to pay the aggregate claims approved under s. 77.64.

SECTION 1m. 71.07 (9) (b) 1. of the statutes is amended to read:

71.07 (9) (b) 1. Subject to the limitations under this subsection and except as provided in ~~subd.~~ subds. 2. and 4., a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 10% of the first \$2,000 of property taxes or rent constituting property taxes, or 10% of the first \$1,000 of property taxes or rent constituting property taxes of a married person filing separately.

SECTION 2. 71.07 (9) (b) 3. of the statutes, as created by 1999 Wisconsin Act 9, is repealed.

SECTION 2m. 71.07 (9) (b) 4. of the statutes is created to read:

71.07 (9) (b) 4. For taxable years beginning after December 31, 1998 and before January 1, 2001, subject

to the limitations under this subsection a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 8.4% of the first \$2,000 of property taxes or rent constituting property taxes, or 8.4% of the first \$1,000 of property taxes or rent constituting property taxes of a married person filing separately.

SECTION 3. 71.07 (9) (g) of the statutes, as created by 1999 Wisconsin Act 9, is repealed.

SECTION 4. 77.64 of the statutes is created to read:

77.64 Onetime rebate of nonbusiness consumer sales tax paid by individuals. (1) **DEFINITIONS.** In this subsection:

(a) "Claimant" means an individual who is eligible under sub. (3) to receive or claim a rebate under this section.

(b) "Department" means the department of revenue.

(c) "Nonresident" means an individual who was not a resident of this state for any part of 1998.

(d) "Part-year resident" means an individual who was a resident of this state for some part of 1998.

(e) "Resident" means an individual who was a full-year resident of this state in 1998.

(2) **CLAIMS.** Subject to the limitations and conditions under sub. (5) a claimant may claim, or is eligible to

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* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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receive, a rebate that is calculated under sub. (4). The department shall certify the amount of the rebate for which the claimant is eligible to the department of administration for payment to the claimant by check, share draft or other draft paid from the appropriation under s. 20.835 (2) (am).

(3) **ELIGIBILITY.** (a) An individual who was a resident and who filed a 1998 Wisconsin income tax return or 1998 homestead credit claim is eligible to receive a rebate under sub. (2).

(b) An individual who was a resident and who did not file a 1998 Wisconsin income tax return or 1998 homestead credit claim by October 15, 1999, is eligible to receive a rebate under sub. (2) only if the individual files a claim with the department not later than June 30, 2000. The claim shall be filed on a form prepared by the department not later than 60 days after the effective date of this paragraph [revisor inserts date].

(be) A married individual who is a resident and whose spouse is a nonresident, and who filed a 1998 Wisconsin income tax return, is eligible to receive a rebate under sub. (2), calculated by the department based on the couple's Wisconsin adjusted gross income.

(bm) A married individual who is a resident and whose spouse is a nonresident, and who did not file a 1998 Wisconsin income tax return by October 15, 1999, is eligible to receive a rebate under sub. (2), calculated by the department, only if the couple files a claim with the department not later than June 30, 2000. The claim shall be filed on a form prepared by the department not later than 60 days after the effective date of this paragraph [revisor inserts date].

(c) An individual who was a part-year resident and who filed a 1998 Wisconsin income tax return or a married couple, of whom one of the spouses was a part-year resident and the other spouse was either a part-year resident or a resident, and who filed a 1998 Wisconsin income tax return, is eligible to receive a rebate under sub. (2), calculated by the department based on the individual's or couple's Wisconsin adjusted gross income.

(d) An individual who was a part-year resident and who did not file a 1998 Wisconsin income tax return by October 15, 1999, or a married couple, of whom one of the spouses was a part-year resident and the other spouse was either a part-year resident or a resident, and who did not file a 1998 Wisconsin income tax return by October 15, 1999, is eligible to receive a rebate under sub. (2), calculated by the department, only if the individual or couple files a claim with the department not later than June 30, 2000. The claim shall be filed on a form prepared by the department not later than 60 days after the effective date of this paragraph [revisor inserts date].

(de) A married individual who is a part-year resident and whose spouse is a nonresident, and who filed a 1998 Wisconsin income tax return, is eligible to receive a

rebate under sub. (2), calculated by the department based on the couple's Wisconsin adjusted gross income.

(dm) A married individual who is a part-year resident and whose spouse is a nonresident, and who did not file a 1998 Wisconsin income tax return by October 15, 1999, is eligible to receive a rebate under sub. (2), calculated by the department, only if the couple files a claim with the department not later than June 30, 2000. The claim shall be filed on a form prepared by the department not later than 60 days after the effective date of this paragraph [revisor inserts date].

(e) An individual who was a nonresident is eligible to receive a rebate under sub. (2) if the individual files a claim with the department not later than 30 days after the effective date of this paragraph [revisor inserts date]. The claim shall be filed on a form prepared by the department. The form shall require a nonresident to document his or her nonbusiness consumer sales taxes paid to Wisconsin in 1998, and the documented amount must be at least \$20 for a nonresident to be eligible to receive a rebate under sub. (2). An individual who was a nonresident is not eligible to receive a rebate under this paragraph if the individual's spouse is eligible to receive a rebate under this subsection.

(4) **CALCULATION.** (a) A claimant who is a resident and married and filed a joint 1998 Wisconsin income tax return or 1998 homestead credit claim shall be eligible for a rebate in one of the following amounts:

1. If the couple's 1998 Wisconsin adjusted gross income is not more than \$25,000, \$360.
2. If the couple's 1998 Wisconsin adjusted gross income is more than \$25,000 but not more than \$50,000, \$368.
3. If the couple's 1998 Wisconsin adjusted gross income is more than \$50,000 but not more than \$75,000, \$385.
4. If the couple's 1998 Wisconsin adjusted gross income is more than \$75,000 but not more than \$100,000, \$405.
5. If the couple's 1998 Wisconsin adjusted gross income is more than \$100,000 but not more than \$200,000, \$442.
6. If the couple's 1998 Wisconsin adjusted gross income is more than \$200,000 but not more than \$500,000, \$487.
7. If the couple's 1998 Wisconsin adjusted gross income is more than \$500,000, \$534.

(b) A claimant who is a resident and single and filed a 1998 Wisconsin income tax return or 1998 homestead credit claim, or who is a resident and married and filed a separate 1998 Wisconsin income tax return, or who is a resident and filed a 1998 Wisconsin income tax return as a head of household, shall be eligible for a rebate in one of the following amounts:

1. If the individual's 1998 Wisconsin adjusted gross income is not more than \$25,000, \$184.

2. If the individual's 1998 Wisconsin adjusted gross income is more than \$25,000 but not more than \$37,500, \$193.

3. If the individual's 1998 Wisconsin adjusted gross income is more than \$37,500 but not more than \$50,000, \$203.

4. If the individual's 1998 Wisconsin adjusted gross income is more than \$50,000 but not more than \$100,000, \$221.

5. If the individual's 1998 Wisconsin adjusted gross income is more than \$100,000 but not more than \$250,000, \$244.

6. If the individual's 1998 Wisconsin adjusted gross income is more than \$250,000, \$267.

(c) A claimant who files a form specified in sub. (3) (b) shall be eligible for a rebate in an amount specified in par. (a) 1. or (b) 1., depending on the individual's filing status.

(d) A claimant to whom sub. (3) (be), (c) or (de) applies shall be eligible for a rebate in an amount specified in par. (a) or (b), depending on the individual's filing status and Wisconsin adjusted gross income.

(e) A claimant who files a form specified in sub. (3) (bm), (d) or (dm) shall be eligible for a rebate in an amount specified in par. (a) 1. or (b) 1., depending on the individual's filing status.

(f) A claimant under sub. (3) (e) shall be eligible for a rebate that is equal to 30.4% of documented nonbusiness consumer sales taxes paid to Wisconsin in 1998, up to a maximum rebate of \$267.

(5) LIMITATIONS AND CONDITIONS. (a) The department may not consider any adjustments or amendments made to a 1998 Wisconsin income tax return after October 15, 1999, in its calculation of a rebate under this section.

(b) With regard to a married couple for whom an offset under s. 71.80 (3) or (3m) must be made against a debt that is owed by only one of the spouses, each spouse shall be considered by the department to have a 50% ownership interest in the rebate.

(c) If an individual who is eligible for a rebate under sub. (3) filed only a 1998 homestead credit claim, the department shall calculate the individual's rebate as if the individual's Wisconsin adjusted gross income is \$25,000.

(d) An individual who was claimed as a dependent on another individual's 1998 federal income tax return is not eligible to claim or receive a rebate under this section, unless the individual had 1998 Wisconsin adjusted gross income of at least \$5,000 and had income tax liability to this state in 1998.

(e) Section 71.80 (3) and (3m), as it applies to income tax refunds, applies to a sales tax rebate under this section.

(f) The department may enforce the rebate under this section and may take any action, conduct any proceeding and proceed as it is authorized in respect to taxes under chapter 71. The income tax provisions in chapter 71 relating to assessments, refunds, appeals, collection, interest and penalties apply to the rebate under this section.

(g) After a rebate has been issued under sub. (2) but before the check, share draft or other draft has been cashed, either joint claimant may request a separate check, share draft or other draft for 50% of the joint rebate.

(h) If the department is unable to locate an individual or married couple who is eligible to receive a rebate under sub. (2) by December 31, 2000, or, notwithstanding ss. 14.58 (12) and 20.912 (1) and notwithstanding s. 20.912 (2) and (3), as affected by 1999 Wisconsin Act 9, if an individual or married couple who is issued a check, share draft or other draft and does not cash the check, share draft or other draft by December 31, 2000, the right to the rebate lapses.

(i) If a claimant who was a resident and who filed a 1998 Wisconsin income tax return or 1998 homestead credit claim becomes deceased after he or she filed his or her income tax return or homestead credit claim, the amount of the rebate for which the claimant is eligible shall be paid to the claimant's estate.

(j) The department shall calculate the rebate for the family only of an individual who has been, or was, incarcerated in a state or federal prison during the taxable year to which 1999 Wisconsin Act ... (this act) applies.

(k) The department may not send any rebate checks to any state or federal prison facility.

(6) SUNSET. This section does not apply after December 31, 2000.

SECTION 5. 1999 Wisconsin Act 9, section 9143 (3g) is repealed.

SECTION 6. Nonstatutory provisions.

(1) DETERMINATIONS OF ELIGIBILITY OR EXTENT OR AMOUNT OF CERTAIN BENEFITS.

(a) In this subsection, "state agency" has the meaning given in section 16.417 (1) (a) of the statutes.

(b) Notwithstanding any other provision of state law that relates to determining, based on an individual's personal income or assets, that individual's eligibility for a state-funded grant, loan, monetary assistance or other benefit or the amount or extent of that grant, loan, monetary assistance or other benefit, a state agency may not consider receipt of a onetime rebate of nonbusiness consumer sales tax under section 77.64 of the statutes, as created by this act, to be income or an asset of the individual in the month of receipt or in the month immediately thereafter. This paragraph shall be broadly construed to avoid determinations of ineligibility for a state-funded grant, loan, monetary assistance or other benefit.

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(c) By December 1, 1999, the department of health and family services shall request a waiver, to the extent permitted under federal law, from the secretary of the federal department of health and human services under 42 USC 1396n (c), and shall amend the state plan for services under 42 USC 1396, to authorize the department of health and family services to disregard receipt by an individual of a onetime rebate of nonbusiness consumer sales tax under section 77.64 of the statutes, as created by this act, in determining the individual's eligibility for medical assistance under section 49.46 (1), 49.465 or 49.47 (4) of the statutes.

(d) To the extent permitted under federal law, a state agency shall disregard receipt by an individual of a onetime rebate of nonbusiness consumer sales tax under section 77.64 of the statutes, as created by this act, in determining the individual's eligibility for a federally funded grant, loan, monetary assistance or other benefit or in determining the amount or extent of that grant, loan, monetary assistance or other benefit.

to \$410,000,000 and shall report these proposed reductions or reestimates to the joint committee on finance.

(b) *Joint committee on finance passive review.* If the cochairpersons of the joint committee on finance do not notify the secretary of administration that the committee has scheduled a meeting for the purpose of reviewing the proposed reductions or reestimates reported under paragraph (a) within 14 working days after the date of receiving the report, the secretary of administration shall lapse or transfer the amount of the proposed reductions to the general fund or reestimate the expenditures to be made from the sum sufficient appropriations. If, within 14 working days after the date of receiving the report, the cochairpersons of the committee notify the secretary of administration that the committee has scheduled a meeting for the purpose of reviewing the proposed reductions or reestimates reported under paragraph (a), the secretary of administration shall lapse or transfer to the general fund or reestimate the amounts approved by the committee in a total amount equal to the amount specified in paragraph (a) from the appropriations specified by the committee.

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In Part** (2) REDUCTIONS OR EXPENDITURE REESTIMATES IN APPROPRIATIONS FOR THE 1999-2001 BIENNIUM.

(a) *Secretary of administration to report proposed reductions or expenditure reestimates in appropriations.* No later than January 1, 2001, the secretary of administration shall propose reductions in sum certain appropriations in any fund or reestimates of expenditures to be made from sum sufficient appropriations from the general fund for the 1999-2001 biennium in an amount equal

SECTION 7. Appropriation changes; revenue.

(1) In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of revenue under section 20.566 (1) (a) of the statutes, as affected by the acts of 1999, the dollar amount is increased by \$2,357,500 for fiscal year 1999-00 to increase funding for the purposes for which the appropriation is made.