

General Fund Taxes

Tax Administration

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LFB Summary Items for Which Issue Papers Have Been Prepared

<u>Item #</u>	<u>Title</u>
5	Sales Tax Late Filing Fee (Paper #130)
13	Delinquent Tax Collection Funding (Paper #131)

Gov Agency: General Fund Taxes—Tax Administration—Sales Tax Late Filing Fee

Recommendations:

Paper No. 130 Alternative 2

Comments: The governor wants to increase the late filing fee for delinquent sales and use tax returns from \$10 to \$30. DOR thinks the current fee is not sufficient enough to deter people from filing late returns. However, the legislature failed to pass a bill during the 1997-99 session which would have increased the fee by the same amount. Additionally, JFC again rejected the idea at the December 1997 s. 13.10 meeting, when DOR requested the fee increase.

Alternative 2 would eliminate the proposed increase, but modify the current law exception from paying the late fee in cases where there was a reasonable cause to cases where there was a good cause. LFB seems to think that part is an okay idea. Otherwise, Alt. 3 (maintain current law is fine too).

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June 7, 1999

Joint Committee on Finance

Paper #130

Sales Tax Late Filing Fee (General Fund Taxes -- Tax Administration)

[LFB 1999-01 Budget Summary: Page 51, #5]

CURRENT LAW

Under current law, delinquent sales and use tax returns are subject to a \$10 late filing fee. However, the fee is not imposed in cases where the person who was required to file the return has died or where the return was not filed because of a reasonable cause and not because of neglect.

GOVERNOR

Increase the late filing fee for delinquent sales and use tax returns from \$10 to \$30. The current law exception from paying the fee in cases where there is a reasonable cause would be modified to require a good cause but not due to neglect. These provisions would first apply to sales and use tax returns that are filed for periods beginning after September 30, 1999. It is estimated that the increase in the sales tax late filing fee would result in additional general fund revenues of \$1,130,000 in 1999-00 and \$1,400,000 in 2000-01.

DISCUSSION POINTS

1. Sales and use taxes are due on a quarterly basis if the amount due for the quarter is between \$300 and \$600; if the amount is less than \$300, the taxes must be paid annually. However, if the amount of sales and use taxes for any calendar quarter exceeds \$600, DOR may require that the taxes be paid on a monthly basis, due and payable on the last day of the next succeeding month. In addition, if the amount of taxes for any calendar quarter exceeds \$3,600, DOR may require that the taxes be due and payable on the 20th day of the next succeeding month. As noted, sales tax returns are subject to a \$10 late filing fee.

2. DOR indicates that the current late filing fee is not sufficient to deter persons from filing delinquent sales and use tax returns. The table below shows the number of late sales and use tax returns from 1994-95 through 1997-98. The Department also indicates that the current \$10 late fee is not reflective of the costs of issuing an assessment to encourage the taxpayer to file a return. The costs include printing, postage, computer time and mailroom labor.

Late Sales and Use Tax Returns

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

3. Under current law, an individual income tax return is due on April 15, following the end of the tax year. Corporate income tax returns are due on the 15th day following the close of the firm's fiscal year. Employers are required to file reports and deposit withheld income taxes on a monthly, quarterly or annual basis, depending upon the amount withheld. Withholding and corporate income and franchise tax returns are subject to a \$30 late filing fee, unless an extension is granted. Individual income tax returns are subject to a \$30 late filing fee if the return is 60 or more days late.

4. During the 1997-99 session, the Legislature considered Assembly Bill 566, which would have increased the sales and use tax late filing fee from \$10 to \$30. The bill also included a provision specifying that the late filing fee would not be imposed in cases where there was a reasonable cause for late filing. The Legislature amended the bill to eliminate the late filing fee increase and it was enacted as 1997 Wisconsin Act 314. Similarly, 1997 Wisconsin Act 27 (the 1997-99 biennial budget) required DOR to submit a plan for conducting a tax amnesty program in 1998 to the Joint Committee on Finance for its consideration. At the Committee's December 1997 s. 13.10 meeting, the Department submitted a comprehensive plan that included a provision that would have increased the sales and use tax late filing fee to \$30. The Committee approved the plan but deleted the increased late filing fee.

5. Small businesses are typically limited in the amount of resources they can devote to administrative activities such as tax preparation and accounting. As a result, they would be more likely to encounter situations where a sales tax return might inadvertently be filed late. From this view, increasing the sales tax late filing fee could be viewed as imposing a burden on small businesses.

6. The bill would modify the current law exception from paying the late filing fee in cases where there was a reasonable cause to cases where there was a good cause. This would make the late filing fee provision consistent with other sales tax penalty provisions. As an alternative, the committee could maintain the current \$10 late filing fee but approve the modification to the

exception provision.

ALTERNATIVES

No. 1. Approve the Governor's recommendation to increase the late filing fee for delinquent sales and use tax returns from \$10 to \$30. Modify the current law exception from paying the fee in cases where there is a reasonable cause to require a good cause but not due to neglect.

#1 2. Maintain the late filing fee of \$10. Approve the Governor's recommendation to modify the current law exception from paying the fee in cases where there is a reasonable cause to require a good cause but not due to neglect.

Alternative 2	GPR
1999-01 REVENUE (Change to Bill)	- \$2,530,000

ok 3. Maintain current law.

Alternative 3	GPR
1999-01 REVENUE (Change to Bill)	- \$2,530,000

Prepared by: Ron Shanovich