

2007 DRAFTING REQUEST

Bill

Received: 11/14/2006

Received By: **bbalinsk**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Easton**

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

Drafter: **bbalinsk**

May Contact:

Addl. Drafters:

Subject: **Transportation - mot veh dealers**

Extra Copies: **ARG**

Submit via email: **NO**

Pre Topic:

DOA:.....Easton, BB0157 -

Topic:

Statute of limitations on tax refunds under the lemon law

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	bbalinsk 12/01/2006	wjackson 12/01/2006	jfrantze 12/04/2006	_____	sbasford 12/04/2006		State
/1	bbalinsk 01/22/2007	wjackson 01/25/2007	pgreensl 01/25/2007	_____	sbasford 01/25/2007		State

FE Sent For:

<END>

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FE Sent For:

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p8

1/26
p8/115
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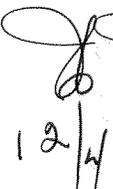
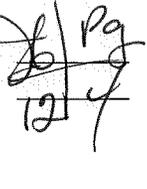
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/P1	bbalinsk	/p1 wlj 12/1					

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Lemon Law Statute of Limitations
- Tracking Code: BB0157
- SBO team: Tax and Local Government
- SBO analyst: Easton
 - Phone: 6-7597
 - Email: Darren.easton@wisconsin.gov
- Agency acronym: DOR
- Agency number: 566
- Priority (Low, Medium, High): Low

**Legislative Proposal Summary
Wisconsin Department of Revenue
IS&E Division**

August 3, 2006

TITLE: LEMON LAW REFUND REQUEST STATUTE OF LIMITATIONS

DESCRIPTION OF CURRENT LAW AND PROBLEM

Section 218.0171(2)(e) Wis. Stats. (2003-04), which is commonly referred to as the "lemon law," provides that the Department of Revenue will refund a motor vehicle manufacturer any sales tax which the manufacturer refunded to the consumer if the manufacturer provides the Department of Revenue with a written request for a refund along with evidence that:

- The sales tax was paid when the motor vehicle was purchased, and
- The manufacturer has refunded the sales tax to the consumer.

This section further states that the department may **not** refund any sales tax under this paragraph if it has made a refund in connection with the same motor vehicle.

Section 77.60(1)(a) Wis. Stat., provides that tax refunds will bear interest at 9% per year from the due date of the return to the date the refund is issued. Although there is no return at issue in a lemon law refund by a manufacturer, the department's Legal Staff has opined that it is reasonable for the department to pay interest from the time the manufacturer issues the refund to the consumer to the date the tax is refunded by the department to the manufacturer.

Under the general sales and use tax law, a person typically has four years after a certain event to file a claim for refund. The lemon law does not provide time limitations for the manufacturer to request a refund from the Department of Revenue once the manufacturer has refunded the tax to the consumer. A claim for refund could be made any time and could result in the state having to pay a substantial amount of interest because of the time period when the tax was refunded by the manufacturer to the customer and the time a refund is issued by the department to the manufacturer.

Example: In December 1993, a manufacturer refunds a consumer \$1,489.76 of sales tax under the lemon law. The manufacturer does not file a claim for refund with the Department of Revenue until April 2005. The manufacturer would receive 9% interest on the refund of \$1,489.76. Under current requirements the interest would be \$1,654.12. Had a statute of limitations been in place requiring the manufacturer to file a claim within four years of the date the refund was issued to the customer (by March 15, 1998), the interest would have been \$563.86.

The lack of time limitations for filing a claim for refund under the lemon law provision:

- Is very expensive for the state. Recently the department received 25 lemon law claims for refund totaling approximately \$24,000 in tax where the manufacturer

refunded the consumer in May 1993 through July 1996. The interest for these claims will equal more than \$20,000.

- Could result in multiple refunds on a single transaction. Without a statute of limitations, the department may have to track motor vehicle transactions **forever** to ensure a refund is not claimed more than once for the same vehicle. Because it is not practical for the Department of Revenue to maintain records forever, the department may not be able to determine if a refund had already been granted to the consumer for older claims by a manufacturer.

RECOMMENDATION FOR ACTION

1. Provide that a manufacturer claiming a refund with the department under sec. 218.0171(2)(e), Wis. Stats. (2003-04), must file the claim with the Department of Revenue within four years of the date the customer was issued a refund of the tax.
2. Clarify that interest shall be paid at the rate of 9% per year from the date the manufacturer issued the refund to the consumer to the date the refund is issued by the department.

ADMINISTRATIVE IMPACT

Reduces the possibility of issuing duplicate lemon law refunds and limits the amount of interest the department is required to pay on lemon law claims for refund. The proposal also clarifies the department's interest computation on such refunds.

FAIRNESS/TAX EQUITY

The time limitations for other sales tax refunds will be consistent with lemon law refunds.

IMPACT ON ECONOMIC DEVELOPMENT

The proposal would have no direct impact on economic development.

FISCAL EFFECT

A small revenue increase is expected through a reduction in the amount of interest paid and a reduction in the limited number of duplicate refunds.

DRAFTING INSTRUCTIONS

Amend sec. 218.0171(2)(e), Wis. Stats., to read:

"The department of revenue shall refund to the manufacturer any sales tax which the manufacturer refunded to the consumer under par. (b) if the manufacturer provides to the department of revenue a written request for refund within 4 years of the date the manufacturer issued the refund to the consumer, along with evidence that the sales tax was paid when the motor vehicle was purchased and that the manufacturer refunded the sales tax to the consumer. The department may not refund any sales tax under this paragraph if it has made a refund in connection with the same motor vehicle under par.(f). Taxes refunded to the manufacturer under this par. shall bear interest at 9% per

year from the date the manufacturer refunded the tax to the customer to the date on which the refund is certified on the refund rolls.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

First day of the second month beginning after publication.

INTERESTED/AFFECTED PARTIES

Motor vehicle manufacturers may not like the limited period of time to file a claim for refund, however, should not oppose as this limitation is similar to all other claims for refund it may make to the Department.

DOR CONTACT PERSON

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(608)266-6798
dhardt@dor.state.wi.us

PREPARED BY

Stan Hook
(608) 264-9944
shook@dor.state.wi.us



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0738/P1

BAB:/.....

WY

DOA:.....Easton, BB0157 - Statute of limitations on tax refunds under the lemon law

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

FN 12/1/08

SOON

D-NOTE

Do Not Gen

- 1 AN ACT ...; relating to: statute of limitations on tax refund requests under motor
- 2 vehicle repair, replacement and refund warranty law.

Analysis by the Legislative Reference Bureau

✓ TRANSPORTATION

MOTOR ✓ VEHICLE DEALERS

The law governing repair, replacement, and refund under a motor vehicle warranty is known as the "lemon law." Under current law, motor vehicle manufacturers who are required by the lemon law to refund vehicle sales tax to vehicle lessors or purchasers who have returned their vehicles may request a refund of that tax from DOR and there is no time limit to request a refund. This bill imposes a four-year statute of limitations for vehicle manufacturers to request a refund of sales tax on vehicles returned to them and establishes that vehicle manufacturers will receive nine percent interest on the sales tax refunded to them.

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. 218.0171 (2) (e) of the statutes is amended to read:

2 218.0171 (2) (e) The department of revenue shall refund to the manufacturer

3 any sales tax which the manufacturer refunded to the consumer under par. (b) if the

4 manufacturer provides to the department of revenue a written request for a refund

5 within 4 years of the date the manufacturer issued the refund to the consumer along

6 with evidence that the sales tax was paid when the motor vehicle was purchased and

7 that the manufacturer refunded the sales tax to the consumer. The department may

8 not refund any sales tax under this paragraph if it has made a refund in connection

9 with the same motor vehicle under par. (f). Taxes refunded to the manufacturer

10 under this paragraph shall bear interest at 9 percent per year from the date the

11 manufacturer refunded the tax to the consumer to the date on which the refund is

12 certified on the refund rolls.

History: 1983 a. 48; 1985 a. 205 ss. 1m to 6, 8; 1987 a. 105, 169, 323, 403; 1989 a. 31; 1999 a. 31 s. 287; Stats. 1999 s. 218.0171; 2001 a. 45.

13 **SECTION 9348. Initial applicability; Transportation**

14 (1) LEMON LAW TAX REFUNDS. The treatment of section 218.0171 (2) (e) of the

15 statutes first applies to applications for sales tax refunds filed on the effective date

16 of this subsection.

17 **SECTION 9448. Effective dates; Transportation**

18 (1) LEMON LAW TAX REFUNDS. The treatment of section 218.0171 (2) (e) of the

19 statutes and SECTION 9348 (1) of this act takes effect on the first day of the ^{2nd} ~~second~~

20 month beginning after publication.

21 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0738/P1dn

BAB:.....

WJ

ATTN: Darren Easton

Under s. 218.0171 (2) (f) if the consumer receives a refund from the vehicle manufacturer of the purchase price of the vehicle but not a refund of the sales tax, the consumer may request a refund of the sales tax directly from DOR. Do you want the same rules regarding statute of limitations on tax refund requests and amount of interest on lemon law tax refunds to apply to consumers as well as to vehicle manufacturers?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0738/P1dn
BAB:wlj:jf

December 4, 2006

ATTN: Darren Easton

Under s. 218.0171 (2) (f) if the consumer receives a refund from the vehicle manufacturer of the purchase price of the vehicle but not a refund of the sales tax, the consumer may request a refund of the sales tax directly from DOR. Do you want the same rules regarding statute of limitations on tax refund requests and amount of interest on lemon law tax refunds to apply to consumers as well as to vehicle manufacturers?

Brett A. Balinsky
Legislative Attorney
Phone: (608) 267-7380
E-mail: brett.balinsky@legis.wisconsin.gov

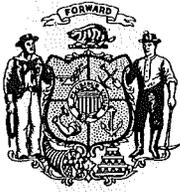
**Department of Revenue LRB Draft Comments
LRB 0738/P1**

1. **Bill and/or LRB Number:** LRB-0738/P1 Statute of Limitations on Tax Refunds Under the Lemon Law
2. **Type of Taxes Affected:** (please list all that apply) Sales and Use Taxes
3. **Description of the Bill:** (briefly describe the subject matter of the bill and the change/s): The bill provides that a manufacturer who refunds sales tax to a consumer of a motor vehicle pursuant to Wisconsin's "lemon law" may obtain a refund of such sales taxes provided the manufacturer files a claim for refund of such sales tax with the Department of Revenue (DOR) within 4 years of the date the manufacturer issued the refund to the consumer. The bill also provides that any such refund paid to the manufacturer by the DOR will bear interest at 9% per year from the date the manufacturer refunded the sales tax to the consumer to the date the refund is certified on the refund rolls.
4. **Statutory language problems, if any:** Yes No
(If yes, describe problems and indicate suggested corrective language. Example of problem: The bill language is unclear, does not fully accomplish the desired result, or has undesirable side effects.)

While the bill establishes a deadline for a manufacturer to file a claim for refund with the DOR for sales tax it refunded to a consumer pursuant to Wisconsin's "lemon law", and allows for interest to be paid on such refund by the DOR to the manufacturer, it does not address similar issues under a separate paragraph for claims of refund of sales taxes by the consumer where the manufacturer fails to refund the sales taxes to the consumer under the "lemon law".

It is suggested that sec. 218.0171(2) (f) be amended to provide that (1) a consumer filing a claim for refund under this paragraph must file the claim within 4 years of the date the manufacturer refunds the amount of the purchase price required under sec. 218.0171(2)(b). to the consumer, and (2) interest will be paid at 9% per year for any refund of tax under this paragraph from the date the manufacturer refunds the amount of the purchase price required under sec. 218.0171(2)(b). to the consumer to the date the refund is certified on the refund rolls.

Effective date problems, if any, including transitional problems: Yes No
(If yes, describe problem and suggested effective date or transitional language needed.)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0738/BA

BAB:wlijf

stays

RMR

DOA:.....Easton, BB0157 - Statute of limitations on tax refunds under the lemon law

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

IN 1/22/07

LPS: please check autobref.

Do Not Gen

- 1 AN ACT **relating to:** statute of limitations on tax refund requests under motor
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TRANSPORTATION

MOTOR VEHICLE DEALERS

The law governing repair, replacement, and refund under a motor vehicle warranty is known as the "lemon law." Under current law, motor vehicle manufacturers who are required by the lemon law to refund vehicle sales tax to vehicle lessors or purchasers who have returned their vehicles may request a refund of that tax from DOR, and there is no time limit to request a refund. This bill imposes a four-year statute of limitations for vehicle manufacturers to request a refund of sales tax on vehicles returned to them. ^{The bill} establishes that vehicle manufacturers will receive 9 percent interest on the sales tax refunded to them.

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

Insert Analysis
New fl
lessors and purchase

Insert Analysis B

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

not to read back... details of from the... of the state...

1 SECTION 1. 218.0171 (2) (e) of the statutes is amended to read:

2 218.0171 (2) (e) The department of revenue shall refund to the manufacturer
 3 any sales tax which the manufacturer refunded to the consumer under par. (b) if the
 4 manufacturer provides to the department of revenue a written request for a refund
 5 within 4 years of the date the manufacturer issued the refund to the consumer along
 6 with evidence that the sales tax was paid when the motor vehicle was purchased and
 7 that the manufacturer refunded the sales tax to the consumer. The department may
 8 not refund any sales tax under this paragraph if it has made a refund in connection
 9 with the same motor vehicle under par. (f). Taxes refunded to the manufacturer
 10 under this paragraph shall bear interest at 9 percent per year from the date the
 11 manufacturer refunded the tax to the consumer to the date on which the refund is
 12 certified on the refund rolls.

INSERT 2-13 →

13 SECTION 9348. Initial applicability; Transportation.

14 (1) LEMON LAW TAX REFUNDS. The treatment of section 218.0171 (2) (e) of the
 15 statutes first applies to applications for sales tax refunds filed on the effective date
 16 of this subsection.

and (f) (intro.) and 3.

17 SECTION 9448. Effective dates; Transportation.

18 (1) LEMON LAW TAX REFUNDS. The treatment of section 218.0171 (2) (e) of the
 19 statutes and SECTION 9348 (1) of this act take effect on the first day of the 2nd month
 20 beginning after publication.

and (f) (intro.) and 3.

21 (END)

Insert Analysis A

NoF Vehicle lessors or purchasers who have received a refund from a vehicle manufacturer under the lemon law but have not received a refund of their sales tax may request a refund of that tax from DOR and there is no time limit to request a refund. ⁵

Insert Analysis B

NoF This bill also imposes a ^{Four} 4 year statute of limitations for vehicle lessors or purchasers to request a sales tax refund from DOR when they have obtained from the manufacturer a refund of the purchase price but not the sales tax paid on the vehicle.

Insert 2-13

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SECTION ~~4~~ 218.0171 (2) (f) (intro.) of the statutes is amended to read:

218.0171 (2) (f) (intro.) The department of revenue shall refund to a consumer described under sub. (1) (b) 1., 2. or 3. all or part of the sales tax paid by the consumer on the purchase of a new motor vehicle, based on the amount of the refund of the purchase price of the motor vehicle actually received by the consumer, plus interest at 9 percent per year on the amount refunded by the manufacturer from the date of the manufacturer's refund of the purchase price of the vehicle to the date on which the refund is certified on the refund rolls, if all of the following apply:

History: 1983 a. 48; 1985 a. 205 ss. 1m to 6, 8; 1987 a. 105, 169, 323, 403; 1989 a. 31; 1999 a. 31 s. 287; Stats. 1999 s. 218.0171; 2001 a. 45.

SECTION ~~4~~ 218.0171 (2) (f) 3. of the statutes is amended to read:

218.0171 (2) (f) 3. The consumer provides the department of revenue with a written request for a refund of the sales tax within 4 years of the date the manufacturer issued the refund to the consumer along with evidence that the consumer received a certain amount as a refund of the purchase price of the motor vehicle from the manufacturer, that the sales tax was paid when the motor vehicle

Please fix font

1 was bought new and that the manufacturer did not refund the sales tax to the
2 consumer.

History: 1983 a. 48; 1985 a. 205 ss. 1m to 6, 8; 1987 a. 105, 169, 323, 403; 1989 a. 31; 1999 a. 31 s. 287; Stats. 1999 s. 218.0171; 2001 a. 45.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0738/1

BAB:wlj:pg

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This bill imposes a four-year statute of limitations for vehicle manufacturers to request a refund of sales tax on vehicles returned to them. This bill also imposes a four-year statute of limitations for vehicle lessors or purchasers to request a sales tax refund from DOR when they have obtained from the manufacturer a refund of the purchase price but not the sales tax paid on the vehicle. This bill establishes that vehicle manufacturers, lessors, and purchasers will receive 9 percent interest on the sales tax refunded to them.

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

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6 with evidence that the sales tax was paid when the motor vehicle was purchased and
7 that the manufacturer refunded the sales tax to the consumer. The department may
8 not refund any sales tax under this paragraph if it has made a refund in connection
9 with the same motor vehicle under par. (f). Taxes refunded to the manufacturer
10 under this paragraph shall bear interest at 9 percent per year from the date the
11 manufacturer refunded the tax to the consumer to the date on which the refund is
12 certified on the refund rolls.

13 **SECTION 2.** 218.0171 (2) (f) (intro.) of the statutes is amended to read:

14 218.0171 (2) (f) (intro.) The department of revenue shall refund to a consumer
15 described under sub. (1) (b) 1., 2. or 3. all or part of the sales tax paid by the consumer
16 on the purchase of a new motor vehicle, based on the amount of the refund of the
17 purchase price of the motor vehicle actually received by the consumer, plus interest
18 at 9 percent per year on the amount refunded by the manufacturer from the date of
19 the manufacturer's refund of the purchase price of the vehicle to the date on which
20 the refund is certified on the refund rolls, if all of the following apply:

21 **SECTION 3.** 218.0171 (2) (f) 3. of the statutes is amended to read:

