

2007 DRAFTING REQUEST

Bill

Received: **11/24/2006**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7597**

By/Representing: **Easton**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Tax, Other - miscellaneous**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Easton, BB0186 -

Topic:

Administration of tax appeals commission deposits by department of revenue

Instructions:

See Attached. Transfer administration of TAC deposits from DOA to DOR

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>
/?	mshovers 11/24/2006	wjackson 11/28/2006		_____			State
/1			pgreensl 11/29/2006	_____	cduerst 11/29/2006		

FE Sent For:

<END>

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11 MES 11/24/06

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P8

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1/29
P8/10

FE Sent For:

<END>

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: MOVE ADMINISTRATION OF TAC DEPOSITS FROM DOA TO DOR
- Tracking Code: BB0186
- 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): Medium

1/5/08 ?
PG

TITLE: MOVE ADMINISTRATION OF TAC DEPOSITS FROM DOA TO DOR

REQUEST

Change Wisc. Statutes 71.90(2) per attached draft to allow Tax Appeals Commission (TAC) deposits to be processed by DOR instead of DOA.

REASON FOR REQUEST

Currently, all deposits for TAC cases come into the department and they are forwarded to DOA for deposit as required by statute. With our conversion to WINPAS, we are requesting that the statutes be changed to give DOR authority to make these deposits so that the transactions can be automatically recorded in WINPAS. If the statutory change is not made, then the deposits would have to be made manually in WINPAS, and then recorded in WiSMART. Manual deposits in WINPAS don't upload to WiSMART which causes an internal control concern and an inefficient process. Such functionality in WINPAS would have to be developed for Wisconsin (at additional cost to Wisconsin from the vendor). Currently, while DOR does not make the deposits, we do make the application of funds out the appropriation where the funds are deposited when the appeal is resolved.

PROPOSED EDITS

~~71.90(2) Deposit with the department . At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may deposit the entire amount of the additional taxes, penalties and fines, together with interest, with the department . The department shall, upon final determination of the appeal, refund to the appellant any portion of such payment which has been found to have been improperly assessed, including interest.~~

Deleted: secretary of administration

Deleted: offer to

Deleted: secretary of administration

Deleted: If an offer to deposit is made, the department of revenue shall issue a certificate to the secretary of administration authorizing the secretary to accept payment of such taxes together with interest to the first day of the succeeding month and to give a receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the taxes and interest to the secretary of administration within 30 days. A copy of the receipt of the secretary of administration shall be filed with the department.

Deleted: . certify to the secretary of administration the amount of the taxes as finally determined and direct the secretary of administration to

Deleted: . The secretary of administration shall make the refunds directed by the certificate within 30 days after receipt.

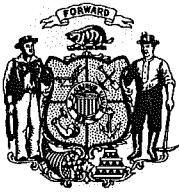
Deleted: Taxes paid

Deleted: to the secretary of administration

Deleted: under this subsection shall be subject to the interest provided by ss. 71.82 and 71.91 (1) (c) only to the extent of the interest accrued on the taxes prior to the first day of the month succeeding the application for hearing.

Deleted:

Deleted: Any portion of the amount deposited with the secretary of administration which is refunded to the taxpayer shall bear interest at the rate of 9% per year during the time that the funds are on deposit.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0891/?

MES.

wij (Kanna)

DOA:.....Easton, BB0186 - Administration of tax appeals commission
deposits by department of revenue

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

SOON

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gen

- 1 AN ACT ...; relating to: transferring the administration of tax appeals
- 2 commission deposits from the department of administration to the department
- 3 of revenue.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Currently, if a taxpayer files with the tax appeals commission an appeal of a department of revenue (DOR) ruling related to taxes, the taxpayer may deposit the entire amount of the additional taxes DOR claims is due, plus interest, with the secretary of the department of administration (DOA) while the appeal is pending. DOR is required under current law to issue a certificate to DOA authorizing the secretary to administer the deposit and issue any refund that is due the taxpayer following the conclusion of the appeals process.

Under this bill, such deposits will be made, and such refunds will be issued, by DOR directly and DOA will no longer administer the deposits or issue any refund that may be due.

Not F Currently, similar procedures for the deposit of tax assessments and the refund that may be due also apply to other taxes including the oil and gas severance tax, the motor vehicle fuel floor tax, the intoxicating liquor floor tax and the cigarette inventory tax

issuance of a

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:

INS
2-1
1

SECTION 1. 71.90 (2) of the statutes is amended to read:

71.90 (2) ~~DEPOSIT WITH THE SECRETARY OF ADMINISTRATION DEPARTMENT.~~ At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may offer to deposit the entire amount of the additional taxes, penalties, and fines, together with interest, with the secretary of administration. If an offer to deposit is made, the department of revenue shall issue a certificate to the secretary of administration authorizing the secretary to accept payment of such taxes together with interest to the first day of the succeeding month and to give a receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the taxes and interest to the secretary of administration within 30 days. A copy of the receipt of the secretary of administration shall be filed with the department. The department shall, upon final determination of the appeal, certify to the secretary of administration the amount of the taxes as finally determined and direct the secretary of administration to refund to the appellant any portion of such payment which has been found to have been improperly assessed, including interest. The secretary of administration shall make the refunds directed by the certificate within 30 days after receipt. Taxes paid to the secretary of administration under this subsection shall be subject to the interest provided by ss. 71.82 and 71.91 (1) (c) only to the extent of the interest accrued on the taxes prior to the first day of the month succeeding the application for hearing. Any portion of the amount deposited with the secretary of administration which is

1 refunded to the taxpayer shall bear interest at the rate of 9% per year during the time
2 that the funds are on deposit.

INS
3-2
3

History: 1987 a. 312; 1997 a. 27; 2003 a. 33.

(END)

INS 2-1

Sec. #, Am; 71.74(14)

71.74(14) ^A ^B

(14) Additional remedy to collect tax. The department may also proceed under s. 71.91 (5) for the collection of any additional assessment of income or franchise taxes or surtaxes, after notice thereof has been given under sub. (11) and before the same shall have become delinquent, when it has reasonable grounds to believe that the collection of such additional assessment will be jeopardized by delay. In such cases notice of the intention to so proceed shall be given by registered mail to the taxpayer, and the warrant of the department shall not issue if the taxpayer within 10 days after such notice furnishes a bond in such amount, not exceeding double the amount of the tax, and with such sureties as the department shall approve, conditioned upon the payment of so much of the additional taxes as shall finally be determined to be due, together with interest thereon as provided by s. 71.82 (1) (a). Nothing in this subsection shall affect the review of additional assessments provided by ss. 71.88 (1) (a) and (2) (a), 71.89 (2), 73.01, and 73.015, and any amounts collected under this subsection shall be deposited with the ~~secretary of administration~~ and *Department* and disbursed after final determination of the taxes as are amounts deposited under s. 71.90 (2).

Sec. #, Am; 77.59(7)

INS 3-2

77.59(7) ^A ^B

(7) If the department believes that the collection of any tax imposed by this subchapter will be jeopardized by delay, it shall notify the person determined to owe the tax of its intention to proceed under s. 71.91 (5) for collection of the amount determined to be owing, including penalties and interest. Such notice shall be by certified or registered mail or by personal service and the warrant of the department shall not issue if the person, within 10 days after such notice furnishes a bond in such amount not exceeding double the amount determined to be owing and with such sureties as the department approves, conditioned upon the payment of so much of the taxes, interest, and penalties as shall finally be determined to be due. Nothing in this subsection shall affect the review of determinations of tax as provided in this subchapter and any amounts collected under this subsection shall be deposited with the ~~secretary of administration~~ and *Department* and disbursed after final determination of the taxes as are amounts deposited under ss. 71.89 (1) and 71.90 (2).

Department



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0891/1
MES:wlj:pg

DOA:.....Easton, BB0186 - Administration of tax appeals commission
deposits by department of revenue

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** transferring the administration of tax appeals
2 commission deposits from the department of administration to the department
3 of revenue.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

Currently, if a taxpayer files with the tax appeals commission an appeal of a DOR ruling related to taxes, the taxpayer may deposit the entire amount of the additional taxes DOR claims is due, plus interest, with the secretary of administration while the appeal is pending. DOR is required under current law to issue a certificate to DOA authorizing the secretary to administer the deposit and issue any refund that is due the taxpayer following the conclusion of the appeals process. Currently, similar procedures for the deposit of tax assessments, and the issuance of a refund that may be due, also apply to other taxes including the oil and gas severance tax, the motor vehicle fuel floor tax, the intoxicating liquor floor tax, and the cigarette inventory tax.

Under this bill, such deposits will be made, and such refunds will be issued, by DOR directly, and DOA will no longer administer the deposits or issue any refund that may be due.

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.** 71.74 (14) of the statutes is amended to read:

2 71.74 (14) **ADDITIONAL REMEDY TO COLLECT TAX.** The department may also
3 proceed under s. 71.91 (5) for the collection of any additional assessment of income
4 or franchise taxes or surtaxes, after notice thereof has been given under sub. (11) and
5 before the same shall have become delinquent, when it has reasonable grounds to
6 believe that the collection of such additional assessment will be jeopardized by delay.
7 In such cases notice of the intention to so proceed shall be given by registered mail
8 to the taxpayer, and the warrant of the department shall not issue if the taxpayer
9 within 10 days after such notice furnishes a bond in such amount, not exceeding
10 double the amount of the tax, and with such sureties as the department shall
11 approve, conditioned upon the payment of so much of the additional taxes as shall
12 finally be determined to be due, together with interest thereon as provided by s. 71.82
13 (1) (a). Nothing in this subsection shall affect the review of additional assessments
14 provided by ss. 71.88 (1) (a) and (2) (a), 71.89 (2), 73.01, and 73.015, and any amounts
15 collected under this subsection shall be deposited with the ~~secretary~~ of
16 ~~administration~~ department and disbursed after final determination of the taxes as
17 are amounts deposited under s. 71.90 (2).

18 **SECTION 2.** 71.90 (2) of the statutes is amended to read:

19 71.90 (2) ~~DEPOSIT WITH THE SECRETARY OF ADMINISTRATION~~ DEPARTMENT. At any
20 time while the petition is pending before the tax appeals commission or an appeal
21 in regard to that petition is pending in a court, the taxpayer may offer to deposit the

1 entire amount of the additional taxes, penalties, and fines, together with interest,
2 with the secretary of administration. If an offer to deposit is made, the department
3 of revenue shall issue a certificate to the secretary of administration authorizing the
4 secretary to accept payment of such taxes together with interest to the first day of
5 the succeeding month and to give a receipt. A copy of the certificate shall be mailed
6 to the taxpayer who shall pay the taxes and interest to the secretary of
7 administration within 30 days. A copy of the receipt of the secretary of
8 administration shall be filed with the department. The department shall, upon final
9 determination of the appeal, certify to the secretary of administration the amount
10 of the taxes as finally determined and direct the secretary of administration to refund
11 to the appellant any portion of such payment which has been found to have been
12 improperly assessed, including interest. The secretary of administration shall make
13 the refunds directed by the certificate within 30 days after receipt. Taxes paid to the
14 secretary of administration under this subsection shall be subject to the interest
15 provided by ss. 71.82 and 71.91 (1) (e) only to the extent of the interest accrued on
16 the taxes prior to the first day of the month succeeding the application for hearing.
17 Any portion of the amount deposited with the secretary of administration which is
18 refunded to the taxpayer shall bear interest at the rate of 9% per year during the time
19 that the funds are on deposit.

20 **SECTION 3.** 77.59 (7) of the statutes is amended to read:

21 77.59 (7) If the department believes that the collection of any tax imposed by
22 this subchapter will be jeopardized by delay, it shall notify the person determined to
23 owe the tax of its intention to proceed under s. 71.91 (5) for collection of the amount
24 determined to be owing, including penalties and interest. Such notice shall be by
25 certified or registered mail or by personal service and the warrant of the department

1 shall not issue if the person, within 10 days after such notice furnishes a bond in such
2 amount not exceeding double the amount determined to be owing and with such
3 sureties as the department approves, conditioned upon the payment of so much of
4 the taxes, interest, and penalties as shall finally be determined to be due. Nothing
5 in this subsection shall affect the review of determinations of tax as provided in this
6 subchapter and any amounts collected under this subsection shall be deposited with
7 the ~~secretary of administration~~ department and disbursed after final determination
8 of the taxes as are amounts deposited under ss. 71.89 (1) and 71.90 (2).

9

(END)