



State of Wisconsin

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RICHARD CHAMPAGNE
CHIEF

February 9, 2016

MEMORANDUM

To: Representative Novak

From: Krista Pleviak, Legislative Attorney, (608) 266-7290
Joseph T. Kreye, Legal Section Administrator, (608) 266-2263

Subject: Technical Memorandum to **2015 AB 843** (LRB-4640/1) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

February 8, 2016

TO: Krista Pleviak
Joseph Kreye
Legislative Reference Bureau

FROM: Robert Schmidt
Department of Revenue

SUBJECT: Technical Memorandum on 2015 AB 843 Regarding the Charge back of Rescinded or Refunded Property Taxes

The Department of Revenue (DOR) has the following concerns regarding the bill:

- By requiring DOR to perform both a chargeback under sec. 74.41(4g) and (4r) and a 70.57 adjustment under sec. 74.41(4), the bill effectively compensates the affected taxation district twice. If the intent of the bill is to process a chargeback regardless of whether DOR determined the error affected the district's equalized value, the department suggests the bill repeal the requirement that DOR reviews the impact on equalized value as part of the chargeback process.
- Under Section 2 of the bill, taxes levied on property within a tax increment district (TID) are not eligible for a chargeback unless the TID is in a decrement situation in the year in which the tax was refunded, rescinded, collected, or corrected. The department suggests the author modify the bill to exclude taxes levied within a TID unless the current value of the TID is lower than the base value in the assessment year for which the tax was refunded, rescinded, collected, or corrected.
- Under Section 8 of the bill, if DOR has not certified the amount of the chargeback or adjustment to the taxation district, DOR would be required to make a determination under sec. 77.41(4g) in addition to sec. 77.41(3). If DOR previously denied a chargeback under sec. 77.41(3), no amount would have been certified under current law sec. 77.41(4)(a) or (b). Section 8 of the bill would effectively require DOR to adjust all denied chargebacks from prior years, which result in property tax increases for taxing jurisdictions to cover the adjusted chargebacks. The department suggests the author remove (1)(c) from Section 8 of the bill.

The suggested language on the next page addresses the issues listed above.

If you have any questions on the technical memorandum, please contact Yuko Iwata at 267-9892 or yuko.iwata@revenue.wi.gov.

SECTION 1. 38.16 (3) (bg) 1. of the statutes is amended to read:

38.16 (3) (bg) 1. The limit otherwise applicable to a district board under this subsection is increased by an amount equal to the amount of any refunded or rescinded property taxes paid by the district board in the year of the levy ~~if the refunded or rescinded property taxes result in a redetermination of the district's equalized valuation~~ as determined by the department under s. 74.41.

SECTION 2. 70.73 (1m) of the statutes is amended to read:

70.73 (1m) AFTER BOARD OF REVIEW. If a town, village, or city clerk or treasurer discovers a palpable error, as described under s. 74.33 (1), in the assessment roll after the board of review has adjourned for the year under s. 70.47 (4), the clerk or treasurer shall correct the assessment roll before calculating the property taxes that are due on the property related to the error and notify the department of revenue of the correction under s. ~~74.41 (1)~~ 70.57.

SECTION 3. 74.41 (1) of the statutes is amended to read:

74.41 (1) SUBMISSION OF REFUNDED OR RESCINDED TAXES TO DEPARTMENT. By October 1 of each year, the clerk of a taxation district may submit to the department of revenue, on a form prescribed by the department of revenue, a listing of all general property taxes on the taxation district's tax roll ~~which~~ that, subject to ~~sub.~~ Subs. (1m) and (2), meet any of the following conditions:

SECTION 4. 74.41 (1) (d) of the statutes is repealed.

SECTION 5. 74.41 (1m) of the statutes is created to read:

74.41 (1m) AMOUNT COLLECTED FROM PROPERTY IN A TAX INCREMENTAL DISTRICT. A tax may not be included on a form submitted under sub. (1) if the tax was levied on property within a tax incremental district, as defined in s. 66.1105 or 60.85, unless the current value of the tax incremental district is lower than the base value of the tax incremental district, as defined in s. 66.1105 (5) (a) and s. 60.85 (5) (a), in the assessment year for which the tax was refunded, rescinded, collected, or corrected under sub. (1) (a) to (d).

SECTION 6. 74.41 (3) of the statutes is repealed.

SECTION 7. 74.41 (4) of the statutes is repealed and recreated to read:

74.41 (4) CHARGE-BACK AMOUNT DETERMINED. The department of revenue shall, by the November 15 following submission of the form under sub. (1), determine the amount of rescinded or refunded taxes to be charged back to, and collected from, each taxing jurisdiction for which taxes were collected by the taxation district, and determine the amount of taxes collected under s. 74.33 to be shared with each taxing jurisdiction for which taxes were collected by the taxation district. Except for interest on refunds under s. 70.511 (2) (b) that is paid with respect to property that was assessed under s. 70.995 and that is not paid by the department of administration under s. 70.511 (2) (bm), the amount determined may not include any interest. The determination of the department of revenue under this subsection is reviewable only under s. 227.53.

SECTION 8. 74.41 (5) of the statutes is amended to read:

74.41 (5) NOTICE AND PAYMENT. (a) The department of revenue shall certify to the clerk of the taxation district the amount determined to be charged back or shared under sub. (4) ~~(a)~~ ~~or~~ ~~(b)~~ and shall furnish a copy of the certification to each affected taxing jurisdiction.

(b) Each taxing jurisdiction to which an amount is charged back under sub. (4) ~~(b)~~ shall pay the amount certified under par. (a) to the taxation district treasurer by February 15 of the year following the determination under sub. ~~(3)~~ (4). By February 15 of the year following the determination under sub. ~~(3)~~ (4), the taxation district treasurer shall pay the amounts to be shared with other taxing jurisdictions.

SECTION 9. 121.91 (4) (q) 1. of the statutes is amended to read:

121.91 (4) (q) 1. The limit otherwise applicable to a school district under sub. (2m) is increased by an amount equal to the amount of any refunded or rescinded property taxes paid by the school board in the year of the levy ~~if the valuation represented by the refunded or rescinded property taxes result in a redetermination of the school district's equalized valuation as determined~~ by the department of revenue under s. 74.41.

SECTION 10. Nonstatutory provisions.

(1) With respect to a form submitted under section 74.41 (1), 2013 stats., before the effective date of this subsection to which any of the following applies, the department of revenue shall make the determination under section 74.41 (4), as affected by this act, and, depending on the outcome of those determinations, take the applicable actions under section 74.41 (4), as affected by this act:

(a) The department of revenue has not made a final determination under section 74.41 (3), 2013 stats., with respect to the taxes included on the form.

(b) The department of revenue's final determination under section 74.41 (3), 2013 stats., is being reviewed under section 227.53.

SECTION 9. Initial applicability.

(1) Except as provided in SECTION 10 of this act, this act first applies to a form submitted by a taxation district under section 74.41 (1) on the effective date of this subsection, regardless of the taxable year to which the form relates.