

CR 09-118

ORDER OF THE DEPARTMENT OF REVENUE CREATING RULES

The Wisconsin Department of Revenue adopts an order to: **create** Tax 1.16; **relating to** the financial record matching program.

Analysis by the Department of Revenue

Statutes interpreted: s. 71.91 (8), Stats.

Statutory authority: s. 71.91 (8) (b), Stats.

Explanation of agency authority: Section 71.91 (8) (b), Stats., provides that the department shall promulgate rules specifying procedures to enter into agreements with financial institutions doing business in the state to operate the financial record matching program.

Related statute or rule: ss. 71.78 (1) and 77.61 (5) (a), Stats.

Plain language analysis: This proposed rule does the following:

- Provides procedures under which the department and a financial institution doing business in Wisconsin shall enter into an agreement for the exchange of data for purposes of operating the financial record matching program.
- Provides the two methods under which the department and a financial institution doing business in Wisconsin may exchange data under the financial record matching program.

Summary of, and comparison with, existing or proposed federal regulation:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states:

The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: 2009 Wisconsin Act 28 created the financial record matching program. Among the provisions created is a requirement for the department to promulgate rules specifying procedures to enter into agreements with financial institutions doing business in Wisconsin. The department has created this proposed rule order to comply with this statutory requirement.

Analysis and supporting documents used to determine effect on small business: Currently all financial institutions doing business in the state are required to participate in the financial records matching program according to s. 49.853, Stats., operated by the Wisconsin Department of Children and Families. There is no impact on smaller financial institutions.

Anticipated costs incurred by private sector: This proposed rule does not have a significant fiscal effect on the private sector.

Effect on small business: This proposed rule does not have a significant effect on small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this proposed rule.

Tax 1.16 Financial record matching program. (1) PURPOSE. The purpose of this section is to specify procedures under which the department shall enter into agreements with financial institutions doing business in this state to operate the financial record matching program under s. 71.91 (8), Stats.

(2) DEFINITIONS. In this section:

(a) Pursuant to s. 71.91 (8) (a) 1., Stats., “account” means a demand deposit account, checking account, negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account.

(b) “Financial institution” has the meaning given in s. 49.853 (1) (c), Stats.

(3) PROCEDURES. (a) A financial institution doing business in this state shall enter into an agreement with the department to participate in the exchange of data on a quarterly basis. To the extent feasible, the information required under this agreement shall be submitted by electronic means prescribed by the department. The financial institution shall sign the agreement and return the agreement to the department within 20 business days of receipt of the agreement. The department shall review the agreement and, if all conditions have been met, shall sign the agreement and provide the financial institution with a copy of the signed agreement. Any changes to the conditions of the agreement shall be submitted by the financial institution or the department at least 60 days prior to the effective date of the change.

(b) A financial institution shall elect one of the following options for the exchange of data described in par. (a):

1. ‘State matching option.’ This option is also known as the “all accounts method.” If this option is elected, the agreement described in par. (a) shall include the following:

a. The financial institution agrees to provide an electronic file to the department or department’s agent on a quarterly basis. The file contains the name, social security number or federal employer identification number of all persons having an ownership interest in an account maintained at the financial institution, together with a description of each person’s interest.

b. The department or department’s agent will perform a match against the delinquent debtor file. Upon the request of the department or the department’s agent,

the financial institution shall provide the department, for each delinquent debtor who matches information provided by the financial institution under subd. 1. a., the delinquent debtor's address of record, account number, account type and the balance of the account.

c. The department or department's agent agrees not to disclose or retain information received from the financial institution concerning account holders who are not delinquent debtors.

2. 'Financial institution matching option.' This option is also known as the "matched accounts method." If this option is elected, the agreement described in par. (a) shall include the following:

a. The department or department's agent agrees to provide the financial institution an electronic file on a quarterly basis. The file contains the names and social security numbers or federal employer identification numbers of delinquent debtors.

b. The financial institution agrees to return a file of matched records to the department or department's agent. The return file of matched records contains the delinquent debtor's name, social security number or federal employer identification number, address of record, account number, account type, the nature of the delinquent debtor's ownership interest in the account and the balance of the account at the time that the record match is made.

c. The financial institution agrees not to disclose or retain information received from the department or the department's agent concerning information contained in the delinquent debtor file in accordance with s. 71.91 (8) (e), Stats.

(c) A financial institution may request reimbursement from the department for costs associated with participating in the financial record matching program in an amount not to exceed \$125 for each calendar quarter that the financial institution participates in the program.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: _____

By: _____
Roger M. Ervin
Secretary of Revenue