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CHAPTER 278

AN ACT to amend 71.10 (14) (a) and (b) of the statutes, relating to bonds of nonresident contractors to pay income and sales and other taxes.

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

71.10 (14) (a) and (b) of the statutes are amended to read:

71.10 (14) (a) All nonresident persons, whether incorporated or not, engaging in construction contracting in this state as contractor or subcontractor and not otherwise regularly engaged in business in this state, shall file a surety bond with the department * * *, payable to the Wisconsin department of taxation, to guarantee the payment of income taxes, * * * *required unemployment compensation contributions, sales and use taxes and income taxes withheld from wages of employes*, together with any penalties and interest thereon. The department * * * shall approve the form and contents of such bond. The amount of the bond shall be * * * 3 per cent of the contract or subcontract price on all contracts of \$50,000 or more or * * * 3 per cent of contractor's or subcontractor's estimated cost-and-profit under a cost-plus contract of \$50,000 or more. When the aggregate of 2 or more contracts in one calendar year is \$50,000 or more the amount of the bond or bonds shall be * * * 3 per cent of the aggregate amount of such contracts. Such surety bond must be filed within 60 days after construction is begun in this state by any such contractor or subcontractor on any contract the price of which is \$50,000 or more (or the estimated cost-and-profit of which is \$50,000 or more), or within 60 days after construction is

begun in this state on any contract for less than \$50,000, when the amount of such contract, when aggregated with any other * * * contracts, construction on which was begun in this state in the same calendar year, equals or exceeds \$50,000. * * * If the department * * * concludes that no bond is necessary to protect the tax revenues of the state, *including contributions under ch. 108*, the requirements under this subsection may be waived by the commissioner of taxation or his designated departmental representative. The bond shall remain in force until the liability thereunder is released by the commissioner * * * or his designated departmental representative.

(b) A construction contractor required to file a surety bond under par. (a) may, in lieu of such requirement, but subject to approval by the department * * *, deposit with the state treasurer an amount of cash equal to the face of the bond that would otherwise be required. If an offer to deposit is made the department * * * shall issue a certificate to the state treasurer authorizing him to accept payment of such moneys and to give his receipt therefor. A copy of such certificate shall be mailed to the contractor who shall, within the time fixed by the department * * *, pay such amount to said treasurer. A copy of the receipt of the state treasurer shall be filed with the department * * *. Upon final determination by the department of such contractor's liability for state income taxes, *required unemployment compensation contributions, sales and use taxes and income taxes withheld from wages of employes*, interest and penalties, by reason of such contract or contracts, the department shall certify to the state treasurer the amount of taxes, penalties and interest as finally determined, shall instruct him as to the proper distribution of such amount, and shall state the amount, if any, to be refunded to such contractor. The state treasurer shall make the payments directed by such certificate within 30 days after receipt thereof. Amounts refunded to the contractor shall be without interest.

Approved August 27, 1963.
