

DEPARTMENT OF REVENUE

Tax 1

3

(c) Remittances not accompanied by deposit reports.

History: Cr. Register, March, 1975, No. 231, eff. 4-1-75.

Tax 1.11 Requirements for examination of returns. (ss. 71.11 (44), 72.06, 77.61 (5), 78.80 (3) and 139.38 (6), Stats.) (1) No information may be divulged to public officers of the federal government or other state governments or the authorized agents of such officers under s. 71.11 (44) (c) 4, or 77.61 (5) (b) 4 unless the information requested is necessary in the administration of the tax laws of such governments; such governments accord similar rights of examination or information to the Wisconsin department of revenue; and the following requirements are first complied with:

(a) The public officer must specify in writing the purpose for each requested examination, the statutory or other authority showing the duties of the office, and the relation of such purpose to the duties of the office, and the name, address and title of the agent authorized to examine tax returns. Further, each person making a request must provide evidence that he or she is a "public officer".

(b) With each requested examination under par. (a) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as income, franchise, gift or sales and use tax; the taxable period (s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the public officer requesting such examination and his or her authorized agent understands the provisions of ss. 71.11 (44), 72.06, 77.61 (5), 78.80 (3) and 139.38 (6) that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(2) No information may be divulged to members of the joint committee on legislative organization, senate committee on organization or assembly committee on organization, or to any agent of the foregoing, under s. 71.11 (44) (c) 3 or to members of the senate committee on organization or assembly committee on organization or to any agent of the foregoing under s. 77.61 (5) (b) 3 unless the following requirements are first complied with:

(a) Specification in writing of the purpose for each requested examination, the relation of such purpose to the official duties or functions of the committee requesting such examination of tax returns, and the name, address and title of the committee member or agent authorized to examine tax returns.

(b) Certification by the chairperson of the committee that said committee by a majority vote of a quorum of its members has approved the requested examination of tax returns by the committee member or agent specified under par. (a).

(c) With each requested examination under pars. (a) and (b) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as income, franchise, gift or sales and use tax; the taxable period (s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the chairperson

Tax 1

requesting such examination and the committee member or authorized agent who will examine tax returns understands the provisions of ss. 71.11 (44) and 77.61 (5) that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(3) No information may be divulged to the attorney general or department of justice employes under ss. 71.11 (44) (c) 2 or 77.61 (5) (b) 2 unless the following requirements are first complied with:

(a) The attorney general must specify in writing the purpose for each requested examination, the statutory or other authority showing the duties of the office, and the relation of such purpose to the duties of the office.

(b) Each requested examination by a department of justice employe must include the above data and an authorization identifying the employe by name, address and title, which authorization shall be signed and approved by the attorney general on whose behalf the department of justice employe is acting.

(c) With each requested examination under pars. (a) and (b) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as income, franchise, gift or sales and use tax; the taxable period (s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the attorney general requesting such examination and the department of justice employe authorized by the attorney general to examine returns understand the provisions of ss. 71.11 (44) and 77.61 (5) that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(4) No information may be divulged to district attorneys under ss. 71.11 (44) (g) 2b or 77.61 (5) (f) 2b unless the following requirements are first complied with:

(a) The tax information to be examined by the district attorney is for use in preparation for a judicial proceeding or an investigation which may result in a judicial proceeding involving any of the taxes or tax credits referred to in ss. 71.11 (44), 72.06, 77.61 (5), 78.80 (3) and 139.38 (6), Stats., and:

1. The taxpayer is or may be a party to such proceeding;
2. The treatment of an item reflected in such tax information is or may be related to the resolution of an issue in the proceeding or investigation;
or
3. The tax information relates or may relate to a transactional relationship between the taxpayer and a person who is or may be a party to the proceeding which affects or may affect the resolution of an issue in such proceeding or investigation.

(b) The district attorney must specify in writing the purpose for each requested examination, the statutory or other authority showing the du-

ties of the office, and the relation of such purpose to the duties of the office.

(c) With each requested examination under pars. (a) and (b) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as income, franchise, gift or sales and use tax; the taxable period (s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the district attorney requesting such examination understands the provisions of ss. 71.11 (44) and 77.61 (5) that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(5) No information may be divulged to employes of this state under ss. 71.11 (44) (c)7, or 77.61 (5) (b)8 unless the following requirements are first complied with:

(a) The public officer of the department, division, bureau, board or commission of this state must specify in writing the purpose for each requested examination, the statutory or other authority showing the duties of the office, the relation of such purpose to the duties of the office, and the name, address and title of the employe of this state authorized to examine returns. Further, such person must provide evidence that he or she is a "public officer" under the constitution and the statutes.

(b) With each requested examination under par. (a) there must also be submitted in writing the following: name and address of each taxpayer whose return is requested; type of tax return, such as income, franchise, gift or sales and use tax; the taxable period (s); the taxpayer's social security number, if available, in the case of returns relating to individuals; and a statement indicating that the public officer and employe of this state authorized to examine returns understand the provisions of ss. 71.11 (44) and 77.61 (5) that any persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office shall be deemed in violation of said subsections.

(c) In addition to the requirements of pars. (a) and (b), the department of revenue must deem the examination necessary for the employe to perform his or her duties under contracts or agreements between the department of revenue and the department, division, bureau, board or commission of this state relating to the administration of tax laws or child support enforcement under s. 46.25.

(6) The department may, when satisfied that the restrictions imposed by ss. 71.11 (44) and 77.61 (5) will be adequately safeguarded and a beneficial tax purpose is demonstrated, enter into agreements with governmental officials whereby information is disclosed or exchanged. In such instances the requirements of this rule may be modified in the discretion of the department.

(7) The information required to be submitted to the department under subs. (1), (2), (3), (4) and (5) shall be submitted on forms provided by the department and shall be open to inspection by the public for a period of 2 years from the date such information is filed with the department. If a public officer, the attorney general, or a district attorney

Tax 1

ney responsible for enforcement of the criminal laws, in the statement required under subs. (1) (a), (3) (a), (4) (b) or (5) (a) declares that a return is being examined for the purpose of a criminal investigation, the department shall accept that declaration as prima facie evidence of the fact that making such knowledge public would result in harm to the public interest which outweighs any benefit that would result from making it public, and the department shall not make such knowledge public for a period of 30 days from date of filing the statement.

(8) A public officer, for purposes of this rule, is any person appointed or elected according to law, who has continuous duties, has taken an oath of office and who is responsible for the exercise of some portion of the sovereign power of this state, or of the sovereign power of another state or of the United States, in which the public has a concern. One, but not the sole, indicium of responsibility for exercising the sovereign power is the authority to make final policy with regard to those duties of a public officer requiring access to tax files under this rule.

History: Cr. Register, August, 1975, No. 236, eff. 9-1-75; am. (4) and cr. (5), Register, January, 1976, No. 241, eff. 2-1-76; emerg. cr. (9), eff. 12-31-78; am. (1) (intro.) and (a) and (2), r. (1) (b), renum. (1) (c) to be (1) (b) and am., renum. (3) to (5) to be (6) to (8) and am. (7) and (8), cr. (3) to (5), Register, January, 1979, No. 277, eff. 2-1-79; cr. (9), Register, March, 1979, No. 279, eff. 4-1-79; am. (1) (intro.) and (b), (4) (a), r. (9), Register, July, 1981, No. 307, eff. 8-1-81.

Tax 1.13 Power of attorney. (ss. 71.11 (44) (c)5 and 71.61 (5) (b) 5a, Stats.) (1) **POWER OF ATTORNEY REQUIREMENT.** (a) A power of attorney or other written authorization executed by the taxpayer shall be required by the Wisconsin department of revenue for the taxpayer's representative, on behalf of the taxpayer, to:

1. Inspect confidential information (e.g., tax returns and audit reports).
2. Receive notices, communications and correspondence containing confidential information.
3. Represent the taxpayer at conferences.
4. Execute a waiver to extend the statutory period for assessment or collection of a tax.
5. Execute any other waivers or agreements in behalf of the taxpayer.

(b) The power of attorney requirement applies to income, franchise, withholding, gift, sales and use tax matters of individuals, partnerships and corporations and homestead credit matters.

(2) **EXCEPTIONS.** (a) A power of attorney is not required for a taxpayer's representative to inspect confidential information or to represent the taxpayer at conferences, if the representative is accompanied by the taxpayer or, if a corporation, by an officer or authorized employe of the corporation.

(b) Generally a power of attorney is not required in the case of a trustee, receiver, guardian, personal representative or special administrator of an estate, or a representative appointed by a court.

(3) **FILING OF POWER OF ATTORNEY.** (a) One power of attorney form shall be filed with the Wisconsin department of revenue, with one additional copy for each additional tax matter. For example, if a power of

attorney covers 2 tax matters, (e.g., income tax and sales tax), 2 power of attorney forms shall be filed.

(b) One power of attorney form shall be filed in each office of the department in which the taxpayer's representative, in connection with the matter under consideration, intends performing one or more of the acts enumerated in sub. (1).

(4) FORM OF POWER OF ATTORNEY. (a) Power of attorney forms are available from any Wisconsin department of revenue office. The Wisconsin form (Form A-222) is similar to the federal power of attorney form (Form 2848).

(b) Use of the Wisconsin power of attorney form is not mandatory. However, the department prefers that this form or another similar form be used. The form shall clearly express the scope of the authority granted the taxpayer's representative, the Wisconsin tax matters (e.g., income, sales, or gift tax) covered and the tax year or period to which it relates.

Note: A supply of forms may be obtained from the department at 4638 University Avenue, Madison, Wisconsin 53708 or by mail request to P.O. Box 8903, Madison, Wisconsin 53708.

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.