



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0221/P2
MES:kjf

DOA:.....Wimmer, BB0023 - Optional electronic notification

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill authorizes a taxpayer to opt in to receive electronically all applicable tax notices from DOR, instead of through personal service or hard copy mail delivery.

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:

SECTION 1. 71.03 (2) (i) 3. of the statutes is amended to read:

71.03 (2) (i) 3. There has been mailed sent to either spouse, with respect to that taxable year, a notice of adjustment under ss. 71.74 to 71.77 and the spouse, as to that notice, files a petition for redetermination under subch. XIV, except that, if both spouses request and the department consents, the election under par. (g) may be made.

SECTION 2. 71.03 (4) (b) of the statutes is amended to read:

71.03 (4) (b) The tax on income reported by persons making the election under par. (a) shall be computed by the department of revenue. After applying all known applicable credits, the department shall notify the taxpayer ~~by mail~~ of the amount of taxes due or the amount of taxes to be refunded.

SECTION 3. 71.54 (4) of the statutes is amended to read:

71.54 (4) DEPARTMENT WILL COMPUTE CREDIT. The claimant is not required to record on the claim the amount claimed. The claim allowable to persons who do not record the amount shall be computed by the department, which shall notify the claimant ~~by mail~~ of the amount of the allowable claim.

SECTION 4. 71.74 (11) of the statutes is amended to read:

71.74 (11) NOTICE OF ADDITIONAL ASSESSMENT. The department shall notify the taxpayer in writing of any additional assessment by office audit or field investigation. That notice shall be served as ~~are circuit court summonses, or by registered mail, or by regular mail if the person assessed admits receipt or there is satisfactory evidence of receipt~~ provided in s. 73.03 (73). In the case of joint returns, notice of additional assessment may be a joint notice and service on one spouse is proper notice to both spouses. If the spouses have different addresses at the time the notice of additional assessment is served and if either spouse notifies the department of revenue in writing of those addresses, the department shall serve a duplicate of the original notice on the spouse who has the address other than the address to which the original notice was sent, if no request for a redetermination or a petition for review has been commenced or finalized. For the spouse who did not receive the original notice, redetermination and appeal rights begin upon the service of a duplicate notice. If the taxpayer is a corporation and the department is unable to

serve that taxpayer ~~personally or by mail~~ as provided in s. 73.03 (73), the department may serve the notice by publishing a class 3 notice, under ch. 985, in the official state newspaper.

SECTION 5. 71.74 (14) of the statutes is amended to read:

71.74 (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 as provided in s. 73.03 (73), 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 department and disbursed after final determination of the taxes as are amounts deposited under s. 71.90 (2).

SECTION 6. 71.78 (2) of the statutes is amended to read:

71.78 (2) DISCLOSURE OF NET TAX. The department shall make available upon suitable forms prepared by the department information setting forth the net Wisconsin income tax or Wisconsin franchise tax reported as paid or payable in the returns filed by any individual or corporation, and any amount of delinquent taxes

owed by any such individual or corporation, for any individual year upon request. When making available information setting forth the delinquent taxes owed by an individual or corporation, the information shall include interest, penalties, fees, and costs, which are unpaid for more than 90 days after all appeal rights have expired, except that such information may not be provided for any person who has reached an agreement or compromise with the department, or the department of justice, under s. 71.92 and is in compliance with that agreement, regarding the payment of delinquent taxes, or the name of any person who is protected by a stay that is in effect under the Federal Bankruptcy Code. Before the request is granted, the person desiring to obtain the information shall prove his or her identity and shall be required to sign a statement setting forth the person's address and reason for making the request and indicating that the person understands the provisions of this section with respect to the divulgement, publication, or dissemination of information obtained from returns as provided in sub. (1). The use of a fictitious name is a violation of this section. Within 24 hours after any information from any such tax return has been so obtained, the department shall ~~mail~~ send to the person from whose return the information has been obtained a notification which shall give the name and address of the person obtaining the information and the reason assigned for requesting the information. The department shall collect from the person requesting the information a fee of \$4 for each return.

SECTION 7. 71.80 (2) of the statutes is amended to read:

71.80 (2) NOTICE TO TAXPAYER BY DEPARTMENT. The department shall notify each taxpayer ~~by mail~~ of the amount of income or franchise taxes assessed against the taxpayer and of the date when the taxes become delinquent.

SECTION 8. 71.80 (12) (a) 2. of the statutes is amended to read:

71.80 (12) (a) 2. A signification of the nonresident's agreement that any notice, order, pleading, or process described in subd. 1. that is so served shall be of the same legal force and validity as if served on the nonresident ~~personally~~, or on the nonresident's personal representative.

SECTION 9. 71.80 (12) (b) 2. of the statutes is amended to read:

71.80 (12) (b) 2. A signification of that person's agreement that any notice, order, pleading, or process described in subd. 1. that is so served shall be of the same legal force and validity as if served on that person ~~personally~~, or upon that person's personal representative.

SECTION 10. 71.80 (12) (c) 2. a. of the statutes is amended to read:

71.80 (12) (c) 2. a. Within 10 days of completion of service, notice of the service and a copy of the served notice, order, pleading, or process are sent ~~by mail~~ by the state department, officer, or agency making the service to the person, or that person's personal representative, at that person's last-known address.

SECTION 11. 71.80 (16) (b) of the statutes is amended to read:

71.80 (16) (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 secretary of administration 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 secretary of administration authorizing said secretary to accept payment of such moneys and to give his or her receipt therefor. A copy of such certificate shall be ~~mailed~~ sent to the contractor who shall, within the time fixed by the department, pay such amount to the secretary of administration. A copy of the receipt of the secretary of administration shall be filed with the department. Upon final determination by the department of such

contractor's liability for state income or franchise taxes, required unemployment insurance contributions, sales and use taxes, and income taxes withheld from wages of employees, interest and penalties, by reason of such contract or contracts, the department shall certify to the secretary of administration the amount of taxes, penalties, and interest as finally determined, shall instruct the secretary of administration as to the proper distribution of such amount, and shall state the amount, if any, to be refunded to such contractor. The secretary of administration shall make the payments directed by such certificate within 30 days after receipt thereof. Amounts refunded to the contractor shall be without interest.

SECTION 12. 71.91 (6) (f) 1. of the statutes is amended to read:

71.91 (6) (f) 1. As soon as practicable after obtaining property, the department shall notify, in the manner prescribed by the department, the owner of any real or personal property, and, at the possessor's request, the possessor of any personal property, obtained by the department under this subsection. That notice may be left at the person's usual place of residence or business. If the owner cannot be located or has no dwelling or place of business in this state, or if the property is obtained as a result of a continuous levy on commissions, wages or salaries, the department may mail send a notice to the owner's last-known address. That notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property obtained and, in the case of real property, a description with reasonable certainty of the property seized.

SECTION 13. 71.91 (7) (b) of the statutes is amended to read:

71.91 (7) (b) The department may give notice to any employer deriving income having a taxable situs in this state (regardless of whether any such income is exempt from taxation) to the effect that an employee of such employer is delinquent in a

certain amount with respect to state taxes, including penalties, interest and costs. Such notice may be served by mail or by delivery by an employee of the department of revenue. Upon receipt of such notice of delinquency, the employer shall withhold from compensation due, or to become due to the employee, the total amount shown by the notice. The department may direct the employer to withhold part of the amount due the employee each pay period, until the total amount as shown by the notice, plus interest, has been withheld. The employer may not withhold more than 25 percent of the compensation due any employee for any one pay period, except that, if the employee leaves the employ of the employer or gives notice of his or her intention to do so, or is discharged for any reason, the employer shall withhold the entire amount otherwise payable to such employee, or so much thereof as may be necessary to equal the unwithheld balance of the amount shown in the notice of delinquency, plus delinquent interest. In crediting amounts withheld against delinquent taxes of an employee, the department shall apply amounts withheld in the following order: costs, penalties, delinquent interest, delinquent tax. The "compensation due" any employee for purposes of determining the 25 percent maximum withholding for any one pay period shall include all wages, salaries and fees constituting income, including wages, salaries, income advances or other consideration paid for future services, when paid to an employee, less amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages, of which amounts and the facts relating to such assignment the employer shall give notice to the department within 10 days after service of the notice of delinquency.

SECTION 14. 71.91 (7) (h) of the statutes is amended to read:

71.91 (7) (h) The department may, by written notice ~~served personally or by mail~~, require any employer, as defined in s. 71.63 (3), to withhold from the compensation due or to become due to any entertainer or entertainment corporation the amount of any delinquent state taxes, including costs, penalties and interest, shown by the notice. The employer shall send the money withheld to the department on or before the last day of the month after the month during which an amount was withheld.

SECTION 15. 73.03 (73) of the statutes is created to read:

73.03 (73) (a) To serve notice in any of the following ways, unless otherwise provided by law:

1. By serving notice as a circuit court summons is served.
2. By certified or registered mail.
3. By regular mail, if the intended recipient admits receipt or there is satisfactory evidence of receipt.
4. By electronic transmission if, before the person receives the electronic transmission, the intended recipient consents to receiving such notices electronically.

(b) Any notice transmitted by the department under par. (a) 4. is considered to be received by the intended recipient on the date that the department electronically transmits the information to the person or electronically notifies the person that the information is available to be accessed by the person. Department records of electronic transmission shall constitute appropriate and sufficient proof of delivery and be admissible in any action or proceeding.

(c) For purposes of this subsection, if the intended recipient has appointed another person or entity to act on the intended recipient's behalf as its agent under

a power of attorney, then service upon the agent constitutes service upon the intended recipient.

SECTION 16. 73.0301 (2) (b) 1. b. of the statutes is amended to read:

73.0301 (2) (b) 1. b. ~~Mail Send~~ a notice of suspension, revocation or denial under subd. 1. a. to the license holder or applicant. The notice shall include a statement of the facts that warrant the suspension, revocation or denial and a statement that the license holder or applicant may, within 30 days after the date on which the notice of denial, suspension or revocation is mailed sent, file a written request with the department of revenue to have the certification of tax delinquency on which the suspension, revocation or denial is based reviewed at a hearing under sub. (5) (a). With respect to a license granted by a credentialing board, the department of safety and professional services shall mail send a notice under this subd. 1. b. With respect to a license to practice law, the department of revenue shall mail send a notice under this subd. 1. b. and the notice shall indicate that the license holder or applicant may request a hearing under sub. (5) (a) and (am) and that the department of revenue shall submit a certificate of delinquency to suspend, revoke, or deny a license to practice law to the supreme court after the license holder or applicant has exhausted his or her remedies under sub. (5) (a) and (am) or has failed to make use of such remedies. A notice sent to a person who holds a license to practice law or who is an applicant for a license to practice law shall also indicate that the department of revenue may not submit a certificate of delinquency to the supreme court if the license holder or applicant pays the delinquent tax in full or enters into an agreement with the department of revenue to satisfy the delinquency.

SECTION 17. 73.0302 (2) of the statutes is amended to read:

73.0302 (2) If the department of revenue denies an application or revokes a certificate under sub. (1), the department shall ~~mail~~ send a notice of denial or revocation to the applicant or certificate holder. The notice shall include a statement of the facts that warrant the denial or revocation and a statement that the applicant or certificate holder may, within 30 days after the date on which the notice of denial or revocation is ~~mailed~~ sent, file a written request with the department to have the determination that he or she is liable for delinquent taxes reviewed at a hearing under s. 73.0301 (5) (a).

SECTION 18. 73.13 (2) (c) of the statutes is amended to read:

73.13 (2) (c) If within 3 years from either the date of the order under par. (b) or the date of the final payment according to a payment schedule as determined under par. (b), whichever is later, the department ascertains that the taxpayer has an income or owns property sufficient to enable the taxpayer to pay the unpaid portion of the principal amount of the taxes due, including the costs, penalties, and interest recorded under par. (b), the department shall reopen the order under par. (b) and order the taxpayer to pay in full the unpaid portion of the principal amount of the taxes due, including the costs, penalties, and interest recorded under par. (b). Before the entry of the order for payment, the department shall send a written notice to the taxpayer, ~~by certified mail~~, advising the taxpayer of the department's intention to reopen the order under par. (b) and fixing a time and place for the appearance of the taxpayer, if the taxpayer desires a hearing. If the department determines that the taxpayer is able to pay the unpaid portion of the principal amount of the taxes due, including the costs, penalties, and interest recorded under par. (b), the department shall enter the order for payment in full. The unpaid portion of the principal amount of the taxes due, including the costs, penalties, and interest

recorded under par. (b), shall be due and payable immediately upon entry of the order for payment in full and shall thereafter be subject to the interest under s. 71.82 (2), as that subsection applies to delinquent income and franchise taxes under s. 71.82, and to the delinquent account fee under s. 73.03 (33m).

SECTION 19. 77.52 (11) of the statutes is amended to read:

77.52 (11) If any person fails to comply with any provision of this subchapter relating to the sales tax or any rule of the department relating to the sales tax adopted under this subchapter, is delinquent in respect to any tax imposed by the department or fails timely to file any return or report in respect to any tax under ch. 71, 72, 76, 77, 78 or 139 after having been requested to file that return or report, the department upon hearing, after giving the person 10 days' notice in writing specifying the time and place of hearing and requiring the person to show cause why the permit should not be revoked or suspended, may revoke or suspend any one or more of the permits held by the person. The department shall give to the person written notice of the suspension or revocation of any of the permits. The notices required in this subsection may be served ~~personally or by mail in the manner prescribed for service of notice of a deficiency determination as provided in s. 73.03 (73).~~ If the department suspends or revokes a permanent permit under this subsection, it may grant a temporary permit that is valid for one month and may then grant additional temporary permits if the person pays all amounts owed under this chapter for the month for which the previous temporary permit was issued. Persons who receive a temporary permit waive the notice requirement under s. 77.61 (2). The department shall not issue a new permanent permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the

provisions of this subchapter, the rules of the department relating to the sales tax and the provisions relating to other taxes administered by the department.

SECTION 20. 77.52 (18) (bm) of the statutes is amended to read:

77.52 (18) (bm) If the purchaser of a stock of goods fails to withhold from the purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires later, but in any event not later than 90 days after receiving the request, the department shall either issue the certificate or ~~mail~~ notice to the purchaser at the purchaser's address as it appears on the records of the department of the amount that must be paid as a condition of issuing the certificate. Failure of the department to ~~mail~~ send the notice will release the purchaser from any further obligation to withhold the purchase price as above provided. The obligation of the successor may be enforced within 4 years of the time the retailer sells out the retailer's business or stock of goods or at the time that the determination against the retailer becomes final, whichever event occurs later.

SECTION 21. 77.59 (3) of the statutes is amended to read:

77.59 (3) No determination of the tax liability of a person may be made unless written notice of the determination is given to the person within 4 years after the due date of the person's Wisconsin income or franchise tax return that corresponds to the date the sale or purchase was completed or, if exempt, within 4 years of the 15th day of the 4th month of the year following the close of the calendar or fiscal year that corresponds to the date the sale or purchase was completed; within 4 years of the dissolution of a corporation; or within 4 years of the date any sales and use tax return

required to be filed for any period in that year was filed, whichever is later. The notice required under this paragraph shall specify whether the determination is an office audit determination or a field audit determination, and it shall be in writing. If the department is unable to obtain service ~~by mail~~ as provided in s. 73.03 (73), publication of it as a class 3 notice, under ch. 985, shall be service of notice in any case where notice is required under this subchapter.

SECTION 22. 77.59 (7) of the statutes is amended to read:

77.59 (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~~ served as provided in s. 73.03 (73) 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 department and disbursed after final determination of the taxes as are amounts deposited under ss. 71.89 (1) and 71.90 (2).

SECTION 23. 77.9961 (3) of the statutes is amended to read:

77.9961 (3) The department shall ~~mail~~ send to each dry cleaning facility of which it is aware a form on which to apply for a license under this section.

SECTION 24. 78.65 (1) of the statutes is amended to read:

78.65 (1) If a general aviation fuel licensee or licensee under s. 78.09 or 78.47 violates any provision of this chapter and the department deems good cause exists for suspension or revocation by reason of such violation, it may suspend such person's license, or, after a hearing of the charges is held, it may revoke such license. No license may be suspended unless the holder of the license has been notified of a hearing to be held on the charges and no license may be revoked until after the holder of the license has been notified of a hearing and has been afforded an opportunity to appear and testify. The department shall notify the licensee in writing of the time and place a hearing of the charges shall be held. The notice shall contain a statement of the alleged violation, and shall be served upon the licensee at least 10 days prior to the hearing, ~~either by personal delivery to the licensee, or by mailing by registered mail to the address of the licensee as shown in the application.~~ At the time and place fixed in the notice, the department shall proceed to a hearing of the charges, and the licensee shall be afforded an opportunity to present in person or by counsel statements, testimony, evidence and argument pertinent to the charges or to any defense thereto. The department may continue the hearing from time to time but not more than 60 days. After the hearing, the department shall rescind the order of suspension, if any, and for good cause shown shall either suspend the license for a period of time or revoke the license.

SECTION 25. 139.77 (3) of the statutes is amended to read:

139.77 (3) If, within 60 days after the ~~mailing~~ sending of notice of the proposed assessment, the taxpayer files a protest to the proposed assessment and requests a hearing on it, the department shall give notice to the taxpayer of the time and place fixed for the hearing, shall hold a hearing on the protest and shall issue a final assessment to the taxpayer for the amount found to be due as a result of the hearing.

If a protest is not filed within 60 days, the department shall issue a final assessment to the taxpayer. In any action or proceeding in respect to the proposed assessment the taxpayer shall have the burden of establishing the incorrectness or invalidity of any final assessment made by the department.

SECTION 26. 139.77 (4) of the statutes is amended to read:

139.77 (4) If any taxpayer required to file any return fails to do so within the time prescribed, the taxpayer shall, on the written demand of the department, file the return within 20 days after the ~~mailing~~ sending of it and at the same time pay the tax due on its basis. If the taxpayer fails within that time to file the return, the department shall prepare the return from its own knowledge and from the information that it obtains and on that basis shall assess a tax, which shall be paid within 10 days after the department has ~~mailed~~ sent to the taxpayer a written notice of the amount and a demand for its payment. In any action or proceeding in respect to the assessment, the taxpayer shall have the burden of establishing the incorrectness or invalidity of any return or assessment made by the department because of the failure of the taxpayer to make a return.

SECTION 27. 177.24 (2) of the statutes is amended to read:

177.24 (2) The administrator shall consider each claim within 90 days after it is filed and may refer any claim to the attorney general for an opinion. For each claim referred, the attorney general shall advise the administrator either to allow it or to deny it in whole or in part. The administrator shall give written notice to the claimant if the claim is denied in whole or in part. The notice shall be ~~given by mailing it~~ sent to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notices is stated in the claim, the notice shall be ~~mailed~~ sent to the last address, if any, stated in the claim as the address of the

claimant. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.

(END)