



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #687

In-House Delinquent Tax Collection Pilot Project (DOR -- Tax Administration)

Bill Agency

[LFB 2007-09 Budget Summary: Page 489, #4]

CURRENT LAW

Under current law, the Department of Revenue (DOR) is authorized to contract with private collection agencies to take actions against delinquent tax accounts. Annual base level expenditure authority of \$354,200 PR is provided for such contracts in the appropriation for collections under contracts. The source of program revenue is additional revenues generated from collection agency activities.

GOVERNOR

Create a delinquent tax collection pilot project under which responsibility for collection actions against certain delinquent accounts would be assigned to DOR compliance staff instead of being transferred to private collection agencies. The project would include: (a) reassigning 3.0 GPR existing revenue agent positions from working as collection agency liaisons to direct collection activities for delinquent accounts normally assigned to collection agencies; and (b) providing expenditure authority of \$613,800 PR in 2007-08, and \$592,100 PR in 2008-09, and 7.0 PR revenue agent project positions annually to work on delinquent accounts. An annual PR appropriation would be created to fund the 7.0 revenue agent positions and related expenses, with additional collections from actions against delinquent accounts as the source of program revenue. It is estimated that the pilot project would increase general fund revenues by \$6,100,000 annually.

DISCUSSION POINTS

1. When an unpaid or unreported tax is identified, a bill is sent to the taxpayer. If the taxpayer disagrees with the assessment, he or she may pay the full amount without filing an appeal, and consider whether to file a claim of refund within two years. Alternatively, the taxpayer may file an appeal with DOR within 60 days after receiving the notice. If the bill is not paid by the due date or appealed, within four weeks after the due date of the original bill, any unpaid liabilities are transferred to the Department's delinquent tax computer system. Ten days later, a Notice of Overdue Tax is sent to the taxpayer indicating that the delinquent tax collection fee has been added to their account, and warns the taxpayer of possible actions that could occur if the liability is not paid. When an assessment is certified as delinquent, a delinquent collection fee is imposed on the account. The delinquent collection fee is equal to 6.5% of the balance or \$35, whichever is greater. Interest at the rate of 18% per year is charged on the balance of tax due.

2. Generally, delinquent tax bills are first assigned to DOR's Central Collection Section for administration. Many taxpayers respond to the Notice of Overdue Tax by requesting an installment agreement for paying the amount owed. Those who are unable to pay their total delinquent tax liability may petition DOR, at any time during the administrative process, to accept a compromise amount and work out a repayment schedule. Taxpayers who do not respond to the initial notice may be contacted by telephone or requested to attend a hearing to resolve the delinquency. The Central Collection Section revenue agent responsible for a delinquent account can also take involuntary collection actions, usually through wage attachments or through levies on the taxpayer's accounts in financial institutions.

3. In most cases, if the Central Collection Section revenue agent is unable to resolve a delinquent account within six months, the account is either transferred to a revenue field agent in the Field Compliance Section or referred to a private collection agency. Specifically, accounts are transferred to private collection agencies under the following criteria: (a) in-state accounts with between \$50 and \$1,000 due; (b) all non-resident accounts where the amount due is over \$50; (c) accounts with no contact between the agent or action taken in over three months; (d) accounts with no change in agent in six months; (d) accounts against which no credits have been applied for six months; and (e) accounts where the last liability has been established for at least one year.

4. In addition to delinquent accounts referred from the Central Collection Section, the Field Compliance Section is directly assigned accounts for in-state businesses and accounts with previous delinquent liabilities that are administered by the Field Compliance Section. Field revenue agents have the same involuntary collection tools to resolve delinquent accounts as other agents including informal hearings, installment agreements, wage attachments, and levies on assets. The agents make field calls to delinquent taxpayers to arrange for payments or to obtain missing returns. Field Compliance section revenue agents can also take the following delinquent tax collection actions: (a) filing delinquent tax warrants on an account, which places a lien on any real or personal property owned by the taxpayer in the county of record; (b) garnishments initiated to seize the assets of the taxpayer that are in the hands of a third party; (c) warrant executions initiated to seize property held by the delinquent taxpayer; (d) revocation of sellers permits; (e) holding supplemental

hearings before a court commissioner to identify assets that could be used to pay the delinquent liability; and (f) officers of a corporation with responsibility to make tax payments may be found to have personal liability for the debts after investigation.

5. Delinquent accounts may be assigned for special treatment in certain circumstances. If the taxpayer files for protection under federal bankruptcy laws, the accounts are assigned to the Special Procedures Unit, which can file claims for delinquent taxes in bankruptcy court, monitor confirmed payment plans, and review bankruptcy discharges to determine if any debt should be written off. Occupational licenses issued by various state agencies may be denied, revoked, or suspended. Dormant accounts, such as those of defunct corporations or deceased taxpayers, are written off when they meet Department guidelines. However, probate claims may be filed if a deceased taxpayer has an estate. Levies may be issued on unclaimed property held in the taxpayer's name by the State Treasurer's office. DOR has authority to offset state or federal tax refunds or Wisconsin lottery prizes against a taxpayer's delinquent liability. Similarly, state payments to vendors who are delinquent taxpayers may be offset against the delinquent liability.

6. Accounts administered by the Field Compliance Section agents and that are unresolved after one year are referred to collection agencies using criteria similar to those used by the Central Collection Section. Specifically, Field Compliance Section accounts are assigned to a private collection agency using the following criteria: (a) the amount due is \$50 or more; (b) the account has been assigned to a field agent for at least one year; (c) there has been no change for one year in the taxpayer's address and in the field agent assigned to the account; (d) the last account liability has been established for at least one year; (e) no credits have been applied to the account liability for six months; and (f) there is no contact with the field agent or action taken on the account for at least three months.

7. Delinquent tax accounts are referred to private collection agencies through the following process:

a. A warning letter is sent to the delinquent taxpayer indicating that the taxpayer has an opportunity to resolve the delinquent tax liability before the account is transferred.

b. If the taxpayer does not make arrangements to resolve the delinquent liability, the account is referred to a collection agency.

c. Collection agencies contact the delinquent taxpayer by letter or telephone to attempt to resolve the delinquent liability. DOR uses information developed by collection agencies to locate the taxpayer and/or the taxpayer's assets.

d. Past-due returns or Petitions For Compromise that are submitted to collection agencies are forwarded to DOR collection agency liaisons for administration. Requests for involuntary collection actions, such as wage attachments or bank account levies, are also administered by Department staff.

e. In cases where accounts are successfully resolved, the collection agency is paid a

contingency fee equal to a percentage of the amount collected.

f. When a collection agency cannot resolve a delinquent tax account after one year, the account is referred back to DOR. DOR then refers the account to a second collection agency for action.

g. Delinquent accounts that are returned as uncollectible by two collection agencies are written off to the delinquent tax system.

DOR contracts with three private collection agencies for delinquent tax account referrals. Collection agencies administer individual accounts for one year, or longer if: (a) by mutual agreement between the firm and DOR, regular payments are made on the account; or (b) there is evidence that the debt is collectible. The collection fee equals 11.5%, 17%, or 20% of the amount collected, depending on the firm. The agencies receive 50% of their normal fee if the agencies provide information that DOR uses to take collection actions.

9. Table 1 shows the number and amount of accounts that were referred to private collection agencies, the amount collected, and the amount of commissions for fiscal years 2002-03 through 2005-06. The amount of delinquent taxes collected averaged about 4.8% of the total amount referred, while commissions averaged over \$900,000 per year.

TABLE 1

Delinquent Accounts Referred to Collection Agencies

	<u>Number of Accounts</u>	<u>Amount Referred</u>	<u>Amount Collected</u>	<u>Percent Collected</u>	<u>Collection Fee</u>
2002-03	18,336	\$169,939,500	\$4,672,700	2.75%	\$569,100
2003-04	7,698	74,192,200	6,488,800	8.75	1,190,100
2004-05	10,626	118,769,100	8,919,800	7.51	565,300
2005-06	22,309	232,708,300	8,339,800	3.58	1,447,600
Four-Year Average	14,742	\$148,902,275	\$7,105,275	4.77%	\$943,025

10. Table 2 shows the total delinquent tax account balance and number of accounts, and the total amount of delinquent tax collections, including those from private collection agencies, for fiscal years 2002-03 through 2005-06. The table shows that an average of 19.1% of the total delinquent account balance was collected during those years.

TABLE 2

Total Delinquent Account Balance

	<u>Number of Accounts</u>	<u>Amount of Delinquent Taxes</u>	<u>Delinquent Collections</u>	<u>Percent Collected</u>
2002-03	104,547	\$703,832,800	\$119,295,500	16.95%
2003-04	105,878	724,496,400	139,166,300	19.21
2004-05	105,651	694,233,500	135,034,500	19.45
2005-06	114,597	706,004,200	147,219,800	20.85
Four-Year Average	107,668	\$707,141,725	\$135,179,025	19.12%

11. As noted, the bill would provide DOR with expenditure authority of \$613,800 PR in 2007-08 and \$592,100 PR in 2008-09 PR and 7.0 PR revenue agent project positions to take collection actions against delinquent tax accounts that would otherwise be referred to private collection agencies. The amount provided includes annual funding of \$111,100 for postage, and one-time funding of \$21,700 PR in 2007-08 for computer hardware and software, and office equipment. In addition, an existing 3.0 GPR revenue agent positions would be reallocated from supporting private business collection activities to the new delinquent tax collection function. The new revenue agents would be funded from a program revenue appropriation created by the bill, which would receive revenue from additional delinquent account collections generated by the revenue agents.

12. DOR believes it could generate a much greater return on investment if it used Department compliance and audit staff to aggressively pursue the delinquent accounts that would otherwise be referred to private collection businesses. The Department has authority to take certain actions, such as certifying wages, placing a levy on assets, and the ability to negotiate installment agreements that are not available to private collection agencies. DOR indicates that it would use the additional and reallocated revenue agents to pursue the following activities: (a) make direct contact with taxpayers whose accounts would normally be referred to collection agencies or the Field Compliance Section; (b) expand involuntary collection activities, such as wage certifications, levies, garnishments and supplemental hearings; (c) determine if personal liability assessments could be made against officers of corporations with delinquent taxes; (d) intensify efforts related to locating and contacting delinquent taxpayers; (e) review dormant and suspended accounts; (f) more closely review accounts before they are written off as uncollectible; and (g) review accounts in the top 100 on the delinquent tax Internet site.

However, Department staff actions do not always generate additional revenues. The accounts that are referred to private collection agencies are often the more difficult accounts to resolve. Also, the actions taken could lead to litigation and additional costs to the Department.

13. Each of the revenue agents would generate an estimated \$1,200,000 in delinquent tax collections, for a total of \$12,000,000 in annual general fund revenues. However, total collections would be offset by an estimated annual decrease of \$5,300,000 in delinquent collections that would have come from private collection agencies. In addition, funding for the new revenue agents would come from the additional delinquent tax collections. Consequently, the net annual increase in delinquent tax collections from the change in delinquent tax collection activities would be \$6,100,000.

14. Assuming that each additional revenue agent position would generate additional revenue raises a significant budget issue. The estimated additional annual delinquent tax collections of \$1,200,000 from the revenue auditors is the average amount of revenue from all collection activities by DOR revenue agents in fiscal year 2005-06. However, at some level of staffing, the average amount of revenue that could be raised by each revenue agent would begin to decline until, eventually, the cost of each agent would exceed the revenue the agent could generate. Thus, at a certain number of revenue agents, each additional revenue agent position would raise less revenues than the cost of the position. However, because of the Department's ability to use certain collection actions, such as the levy, it could be argued that the revenues generated by the new agent positions would not quickly plateau and begin to diminish.

15. DOR indicates that it would continue to refer delinquent accounts to private collection agencies if these provisions were adopted. But the Department would use collection agencies in a reduced role.

16. The bill provides funding of \$299,600 PR for project position salaries and \$132,800 PR for fringe benefits in each year for the 7.0 PR new revenue agent project positions. However, because it usually takes time to fill new positions, full year funding is not necessary in the first year they are authorized. The 2007-09 technical budget instructions from DOA require new positions to be budgeted for only nine months of the year. Consequently, funding for the new positions could be reduced by \$108,100 in 2007-08. In addition, estimated additional delinquent tax collection activities would occur for nine months rather than a full year in 2007-08. As a result, estimated additional revenue collections in 2007-08 would be reduced by \$1.5 million to \$4.6 million.

ALTERNATIVES TO BILL

1. Adopt the Governor's recommendation to create a delinquent tax collection pilot project under which responsibility for collection actions against certain delinquent accounts would be assigned to DOR compliance and audit staff instead of being transferred to private collection agencies by: (a) reassigning 3.0 GPR existing revenue agent positions from working as collection agency liaisons to direct collection activities for delinquent accounts normally assigned to collection agencies; and (b) providing expenditure authority of \$613,800 PR in 2007-08, and \$592,100 PR in 2008-09, and 7.0 PR revenue agent project positions annually to work on delinquent accounts. Create an annual PR appropriation to fund the 7.0 revenue agent positions and related expenses, with additional collections from actions against delinquent accounts as the source of program

revenue.

ALT 1	Change to Bill			Change to Base		
	Revenue	Funding	Positions	Revenue	Funding	Positions
GPR	\$0	\$0	0.00	\$12,200,000	\$0	0.00
PR	<u>0</u>	<u>0</u>	<u>0.00</u>	<u>0</u>	<u>1,205,900</u>	<u>7.00</u>
Total	\$0	\$0	0.00	\$12,200,000	\$1,205,900	7.00

2. Modify the Governor's recommendation to reduce expenditure authority by \$108,100 PR in 2007-08 to provide nine-months of first-year funding for the 7.0 PR new revenue agents. Reestimate additional delinquent tax collections to be \$4.6 million in 2007-08 instead of \$6.1 million.

ALT 2	Change to Bill			Change to Base		
	Revenue	Funding	Positions	Revenue	Funding	Positions
GPR	-\$1,500,000	\$0	0.00	\$10,700,000	\$0	0.00
PR	<u>0</u>	<u>-108,100</u>	<u>0.00</u>	<u>0</u>	<u>1,097,800</u>	<u>7.00</u>
Total	-\$1,500,000	-\$108,100	0.00	\$10,700,000	\$1,097,800	7.00

3. Delete provision.

ALT 3	Change to Bill			Change to Base		
	Revenue	Funding	Positions	Revenue	Funding	Positions
GPR	-\$12,200,000	\$0	0.00	\$0	\$0	0.00
PR	<u>0</u>	<u>-1,205,900</u>	<u>-7.00</u>	<u>0</u>	<u>0</u>	<u>0.00</u>
Total	-\$12,200,000	-\$1,205,900	-7.00	\$0	\$0	0.00

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