CHAPTER 73

TAX APPEALS COMMISSION AND DEPARTMENT OF REVENUE

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73.01 Tax appeals commission. (1) DEFINITIONS. In this section:

(a) "Commission" means the tax appeals commission.

(b) "Small claims" is a matter in which the amount in controversy, including any penalty, after the department of revenue takes its final action on the petition for redetermination is less than $2,500 unless the commission on its own motion determines that the case not be heard as a small claims case or unless the department of revenue determines that the case has statewide significance.

(2) EMPLOYEES. The chairperson of the commission may appoint, under the classified service, such employees for the commission as are necessary.

(3) HEARINGS AND REPORTS. (a) The time and place of meetings and hearings of the commission shall be designated by the chairperson. Rooms for hearings outside the city of Madison shall be provided under s. 73.07. All hearings held in Milwaukee shall be held in the southeast district office of the department of natural resources. The commission shall maintain permanent hearing rooms in Madison.

(b) The commission shall provide for the publication of such of its reports, decisions and opinions as are of public interest in such form as it deems best adapted for public convenience and use. Such publications shall constitute the official reports of the commission and shall be made available for sale and distribution to the public under ch. 35. In addition to any report submitted under s. 15.06 (7), the commission shall make additional reports to the governor or the legislature as they request. The commission shall submit a report requested by the legislature to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

(4) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.38 (4) (a), 70.397, 70.64, and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 77.26 (3), 77.59 (5m) and (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405, and 341.45, subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), or the department of transportation and the adverse party agreeing to an affirmance, modification, or reversal of the department of revenue's or department of transportation's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department of revenue or the department of transportation without the approval of the commission.

(am) Whenever it appears to the commission or, in respect to hearings conducted by one commissioner, to that commissioner that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in those proceedings is frivolous or groundless, the commission or commissioner may assess the taxpayer an amount not to exceed $1,000 at the same time that the deficiency is assessed. Those damages shall be paid upon notice from the department of revenue and shall be collected as a part of the tax.

(b) Any matter required to be heard by the commission may be heard by any member of the commission or its hearing examiner and reported to the commission, and hearings of matters pending before it shall be assigned to members of the commission or its hearing examiner by the chairperson. Cases other than small claims cases shall be decided by the full commission, except that if one or more members of the commission are unavailable, cases other than small claims cases shall be decided by the member or members assigned by the chairperson prior to the hearing. If the parties have agreed to an oral decision, the member or members conducting the hearing may render an oral decision. Hearings shall be open to the public and all proceedings shall be conducted in accordance with rules of practice and procedure prescribed by the commission. Small claims cases shall be decided by one commissioner assigned by the chairperson prior to the hearing.

(bn) The parties to any matter required to be heard and decided by the commission, except appeals arising under s. 70.64 or ch. 76, may consent in writing that the chairperson or any member of the commission assigned to hear the matter may render an oral decision, and that the parties waive the right to appeal such decision. Such oral decision shall not be binding upon the department, as to statutory construction, in a subsequent matter. Provisions of this section, s. 73.015 or ch. 227 in conflict herewith shall not apply to decisions rendered under this paragraph.

(c) The commission shall, upon the request of any party to a matter pending before it or of any officer of the state government or upon its own motion order that all proceedings in a matter pending before it be recorded, and the expense thereof shall be paid by the state out of the appropriation for the commission. The commission may supply copies of the transcript of those recordings to anyone requesting them, at the expense of the person making such request. All moneys received by the commission from the sale of transcripts of those recordings shall be paid into the state treasury within one week after receipt. If no party to a matter pending before the commission requests that the proceedings held with respect thereto be recorded, and the commission does not so order

upon its own motion, all parties shall be deemed to have waived all rights of appeal to the courts upon questions as to the admission or exclusion of evidence or as to whether a finding of the commission is warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by facts stipulated or shown by the findings of the commission is not waived.

(d) Any member of the commission or any employee of the commission, designated in writing for the purpose by the chairperson, may administer oaths, and any member of the commission may summon and examine witnesses and require by subpoena the production of all returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry, at any designated place of hearing and may require the taking of a deposition before any person competent to administer oaths, either within or without the state, upon notice to the interested party in like manner that depositions of witnesses are taken in civil actions pending in the circuit court. Any party to a matter pending before the commission may summon witnesses or require the production of papers in the same manner as witnesses are summoned or papers required to be produced in civil actions in the circuit court. Any person summoned or whose deposition is taken shall receive the same fees and mileage as would be allowed in a civil action pending in the circuit court, and the expense thereof shall be paid by the person summoning such witness or causing the deposition to be taken.

(dn) In connection with the hearing of any matter required to be heard and decided by the commission, except appeals arising under s. 70.64 or ch. 76, the chairperson or any member of the commission assigned to hear the matter may, with the consent of the parties, render an oral decision. In small claims cases, the presiding commissioner may, without consent of the parties, either render an oral decision at the close of the hearing or provide a written decision to all parties within 2 weeks after the hearing. Decisions in small claims cases are not precedents. Any party may appeal such oral decision as provided in s. 73.015. Oral decisions constitute notice for purposes of determining the time in which appeals may be taken. Provisions of this section or ch. 227 in conflict with this paragraph do not apply to decisions rendered under this paragraph.

(e) Except as provided in par. (dn), the commission in each case heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by findings of fact and conclusions of law. The commission may issue an opinion in writing in addition to its findings of fact and decision. The decision or order of the commission shall become final and shall be binding upon the petitioner and upon the department of revenue for that case unless an appeal is taken from the decision or order of the commission under s. 73.015. Except in respect to small claims decisions, if the commission construes a statute adversely to the contention of the department of revenue:

1. Except for hearings on ss. 341.405 and 341.45 and except as provided in subd. 2., the department of revenue shall be deemed to acquiesce in the construction so adopted unless the department of revenue seeks review of the order or decision of the commission so construing the statute. For purposes of this subdivision, the department of revenue has sought review of the order or decision if it seeks review and later settles the case or withdraws its petition for review or if the merits of the case are for other reasons not determined by judicial review. The construction so acquiesced in shall thereafter be followed by the department of revenue.

2. Except for hearings on ss. 341.405 and 341.45, the department of revenue may choose not to appeal and to nonacquiesce in the decision or order by sending a notice of nonacquiescence to the clerk of the commission, to the legislative reference bureau for publication in the Wisconsin administrative register and to the taxpayer or the taxpayer's representative before the time expires for seeking a review of the decision or order under s. 73.015. The effect of this action is that, although the decision or order is binding on the parties for the instant case and the decision or order may be cited by the commission and the courts, the commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the department of revenue in other cases.

(em) 1. If only 2 commissioners are available to participate in a decision in a case that would otherwise be decided by the full commission, and if the 2 commissioners cannot agree on the resolution of the case, the chairperson of the commission shall make the decision in the case, except that, if the chairperson is not participating in the case, the commissioner participating in the case who has been a commissioner for the longer period of time shall make the decision.

2. If only one commissioner is available to participate in a decision in a case that would otherwise be decided by the full commission, the commissioner who participates in the case shall make the decision.

(f) All reports, findings, decisions and opinions of the commission, and all evidence received by the commission, including a transcript of any report of the proceedings, shall be open to the inspection of the public, except that the originals of books, documents, records, labels, diagrams, and other exhibits introduced in evidence before the commission, may be withdrawn from the custody of the commission in such manner and upon such terms as the commission may, in its discretion, prescribe.

(g) The commission shall, in manufacturing property redeterminations under s. 70.995 for which a refund is due a taxpayer because of a reduction in value by the commission, include in its determination a finding of whether the reduction was due to false or incomplete information supplied by the taxpayer.

(h) The commission may extend any of its deadlines for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(i) If the department of revenue assesses under s. 71.74 (9), the commission shall consolidate the appeals of that assessment.

(4m) DEADLINE FOR DECISIONS. (a) The final decision or order of the commission shall be issued within 90 days after the date on which the last document necessary to the decision of the matter is received or the date on which a hearing is closed, whichever is later, unless good cause is shown or unless the parties and the commission agree to an extension.

(b) No member of the commission, including the chairperson, or its hearing examiner may receive any salary unless he or she first executes an affidavit at the end of each salary period stating that he or she has complied with the deadlines in par. (a). The affidavit shall be presented to and filed with every official who certifies, in whole or in part, the salary.

(c) If a member of the commission, including the chairperson, or its hearing examiner is unable to comply with the deadline under par. (a), that person shall so certify in the record, and the period is then extended for one additional period not to exceed 90 days.

(5) APPEALS TO COMMISSION. (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department of revenue may, within 60 days of the determination of the state board of assessors or of the department of revenue or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department of revenue and the number of copies of the petition required by rule adopted by the commission. Any person who is aggrieved by a determination of the department of transportation under s. 341.405 or 341.45 may, within 30 days after the determination of the department of transportation, file with the clerk of the commission a petition for review of the action of the department of transportation and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of

that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy to the department of revenue, or to the department of transportation, and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a $25 filing fee. The commission shall deposit the fee in the general fund. Within 30 days after such transmission the department of revenue, except for petitions objecting to manufacturing property assessments, or the department of transportation, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c) or 76.48 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

(b) The petition shall set forth specifically the facts upon which the petitioner relies, together with a statement of the propositions of law involved, and shall be in such form as the commission by rule designates. After an answer is filed as provided in par. (a), the matter shall be regarded as at issue and the commission shall set it for hearing. At all times while said appeal is pending before the commission, the petitioner shall keep the commission informed as to the petitioner's residence. Upon the petitioner's failure to do so, the mailing by the commission of a notice of hearing, decision and order or other papers by registered mail to the petitioner's attorney or to the petitioner's last–known address shall constitute good and sufficient service. Petitions and answers may be amended under rules to be prescribed by the commission.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27; 1999 a. 145; 2001 a. 16; 2003 a. 33; 2005 a. 49; 2007 a. 20; 2011 a. 68; 2015 a. 216.

A subpoena duces tecum need not show on its face the factual basis for its issuance in order to prove lawful purpose and relevancy. The commission properly took testimony even though it was deciding a question of law. Neu's Supply Line, Inc. v. DOR, 52 Wis. 2d 386, 190 N.W.2d 213 (1971).

A party challenging the administration of taxing statutes must exhaust state administrative remedies before commencing an action in state courts under 42 USC 1983. Hogan v. Musolf, 163 Wis. 2d 1, 471 N.W.2d 216 (1991).

Sub. (4) (dn) does not prohibit petitions for rehearing oral decisions. DOR v. Hogan, 198 Wis. 2d 792, 543 N.W.2d 825 (Ct. App. 1995), 95–0438.

Sub. (4) (b) does not grant the commission the authority to certify a class in a class–action that seeks income tax refunds. DOR v. Hogan, 198 Wis. 2d 792, 543 N.W.2d 825 (Ct. App. 1995), 95–0438.

Sub. (5) governs petitions for review to the tax appeals commission of determinations by either the state board of assessors or Department of Revenue. It does not govern an attempt to obtain a rehearing of a commission determination, the timeliness of which is governed by s. 227.49 (1). Currier v. DOR, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520, 05–0292.

Sub. (4) (b) requires that the commissioner or hearing examiner presiding over the hearing "report" to the tax commission following a hearing but does not specify what is sufficient to fulfill this requirement. The commission fulfilled the reporting requirement by receiving the presiding commissioner's memorandum, considering its proposed findings of fact, and providing reasons for its rejection of those proposed findings. Xerox Corporation v. DOR, 2009 WI App 113, 321 Wis. 2d 181, 772 N.W.2d 677, 07–2884.

Practice before the Wisconsin tax appeals commission. Smrz, 1976 WBB 3.

Procedures before the Wisconsin tax appeals commission. Boykoff, WBB October 1981.

73.015 Review of determination of tax appeals commission. (1) This section shall provide the sole and exclusive remedy for review of any decision or order of the tax appeals commission and no person may contest, in any action or proceeding, any matter reviewable by the commission unless such person has first availed himself or herself of a hearing before the commission under s. 73.01 or has cross–appealed under s. 70.995 (8) (a).

(2) Any adverse determination of the tax appeals commission is subject to review in the manner provided in ch. 227. If the circuit court construes a statute adversely to the contention of the department of revenue, the department shall be deemed to acquiesce in the construction so adopted unless an appeal to the court of appeals is taken, and the construction so acquiesced in shall thereafter be followed by the department.

(3) Except for decisions and orders in small claims matters, as defined in s. 73.01 (1) (b), a conclusion of law or other holding in any decision or order of the tax appeals commission may be cited by the commission or the courts as authority unless that conclusion of law or holding has been reversed, overruled, or vacated on the merits on appeal or by a subsequent decision or order of the commission.

History: 1977 c. 29, 187; 1985 a. 29; 1987 a. 399; 2011 a. 68.

Because the commission is the final administrative authority that reviews the decisions of the Department of Revenue (DOR), any deference that might be due to the decision of an administrative agency is due to the commission, not DOR. Although this standard ordinarily applies in the context where there is a conflict between DOR's and the commission's construction of a tax statute, it also applies to the commission's construction of a tax rule. DOR v. Menasha Corporation, 2008 WI 88, 311 Wis. 2d 579, 754 N.W.2d 95, 04–3239.

The commission is not required to give deference to the Department of Revenue's (DOR's) interpretation of rules drafted by DOR in proceedings before the commission. No authority exists for requiring the commission to defer to DOR's construction of its rule. To give DOR deference would ignore the boundaries that the legislature created when it gave the commission final authority over all tax questions. DOR v. Menasha Corporation, 2008 WI 88, 311 Wis. 2d 579, 754 N.W.2d 95, 04–3239.

73.02 Distribution of money; income tax coordinator. (1) The department of revenue shall, on the certification of the program agencies that all requirements of the applicable laws have been complied with, perform the mechanical operation of the distribution of all moneys which the state distributes to political subdivisions.

(2) The secretary shall designate or appoint under the classified service, within the department of revenue, an income tax coordinator, whose duties shall include the setting up and operation of a coordination program with the internal revenue service to facilitate the reporting of federal adjustments to the department and the interchange of information with respect to examination of returns, adjustments to income, extension of limitations, furnishing copies of returns and other activities essential to an integrated and effective coordination program with the internal revenue service.

73.028 Levy rate limits and debt conditions; rules. The department may promulgate rules to implement and administer the levy rate limits and debt issuance conditions under ss. 59.605 and 67.045.

History: 1993 a. 16; 1999 a. 150 s. 672.

73.029 Rules required. The department of revenue may require electronic funds transfer only by promulgating rules.

History: 1997 a. 27.

Cross–reference: See also s. Tax 1.12, Wis. adm. code.

73.03 Powers and duties defined. It shall be the duty of the department of revenue, and it shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and tax laws of the state, over assessors, boards of review, supervisors of equalization, and assessors of incomes, and over the county boards in the performance of their duties in making the taxation district assessment, to the end that all assessments of property be made relatively just and equal at full value and that all assessments of income may be legally and accurately made in substantial compliance with law.

(2) To confer with, advise and direct assessors, boards of review and county boards of assessment as to their duties under the statutes.

(2a) To prepare and publish, in electronic form and on the Internet, assessment manuals. The manual shall discuss and illus-

trate accepted assessment methods, techniques and practices with a view to more nearly uniform and more consistent assessments of property at the local level. The manual shall be amended by the department from time to time to reflect advances in the science of assessment, court decisions concerning assessment practices, costs, and statistical and other information considered valuable to local assessors by the department. The manual shall incorporate standards for the assessment of all types of renewable energy resource systems used in this state as soon as such systems are used in sufficient numbers and sufficient data exists to allow the formulation of valid guidelines. The manual shall incorporate standards, which the department of revenue and the state historical society of Wisconsin shall develop, for the assessment of nonhistoric property in historic districts and for the assessment of historic property, including but not limited to property that is being preserved or restored; property that is subject to a protective easement, covenant or other restriction for historic preservation purposes; property that is listed in the national register of historic places in Wisconsin or in this state's register of historic places and property that is designated as a historic landmark and is subject to restrictions imposed by a municipality or by a landmarks commission. The manual shall incorporate general guidelines about ways to determine whether property is taxable in part under s. 70.1105 and examples of the ways that s. 70.1105 applies in specific situations. The manual shall state that assessors are required to comply with s. 70.32 (1g) and shall suggest procedures for doing so. The manual or a supplement to it shall specify per acre value guidelines for each municipality for various categories of agricultural land based on the income that could be generated from its estimated rental for agricultural use, as defined by rule, and capitalization rates established by rule. The manual shall include guidelines for classifying land as agricultural land, as defined in s. 70.32 (2) (c) 1g., and guidelines for distinguishing between land and improvements to land. The cost of the development, preparation, and Internet publication of the manual and of revisions and amendments to it shall be paid from the appropriation under s. 20.566 (2) (bm).

(3) To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against assessors, members of boards of review, assessors of incomes, and members of county boards, or other assessing or taxing officers, to the proper circuit judge for their removal from office for official misconduct or neglect of duty.

(4) To require district attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishment for violations of the laws of the state in respect to the assessment and taxation of property, in their respective counties.

(5) To collect annually from town, city, village, county, and other public officers information regarding the assessment of property, and any other information that may be necessary in the work of the department, in the form and upon forms that the department shall prescribe. All public officers shall properly complete and promptly return to the department all forms received from the department under this subsection.

(5g) To examine all town, village, city, and county records for any purposes that are considered necessary by the department.

(5r) To publish annually the information collected under subs. (5) and (5g), with any compilations, analyses, or recommendations that the department determines are necessary.

(6) In its discretion to inspect and examine or cause an inspection and examination of the records of any town, city, village, or county officer whenever such officer shall have failed or neglected to return properly the information as required by sub. (5), within the time set by the department of revenue. Upon the completion of such inspection and examination the department of revenue shall transmit to the clerk of the town, city, village, or county a statement of the expenses incurred by the department of revenue to secure the necessary information. Duplicates of such statements shall be filed in the office of the secretary of administration. Within 60 days after the receipt of the above statement, the same shall be audited, as other claims of towns, cities, villages, and counties are audited, and shall be paid into the state treasury, in default of which the same shall become a special charge against such town, city, village, or county and be included in the next apportionment or certification of state taxes and charges, and collected with interest at the rate of 10 percent per year from the date such statements were certified by the department, as other special charges are certified and collected.

(7) The officers responsible for the furnishing of the information collected pursuant to this section shall be jointly and severally liable for any loss the town, city, village or county may suffer through their delinquency; and no payment shall be made them for salary, or on any other accounts, until the cost of such inspection and examination as provided above shall have been paid into the town, city, village or county treasury.

(8) To require individuals, partnerships, limited liability companies, companies, associations and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and all other facts which may be needful to enable the department to ascertain the value and the relative burdens borne by all kinds of property in the state.

(9) To summon witnesses to appear and give testimony, and to produce records, books, papers and documents relating to any matter which the department shall have authority to investigate or determine.

(10) To cause the deposition of witnesses residing within or without the state or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions pending in the circuit court, in any matter which the department shall have authority to investigate or determine.

(11) To visit the counties in the state, unless prevented by other necessary official duties, for the investigation of the work and the methods adopted by local assessors, county assessors, boards of review, supervisors of equalization and county boards, in the assessment, equalization and taxation of property. The department of revenue and its district supervisory staff shall assist the county assessor in carrying out the assessor's duties.

(12) To carefully examine into all cases where evasion or violation of the laws for assessment and taxation of property is alleged, complained of or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(13) To investigate the tax systems of other states and countries and to formulate and recommend such legislation as may be deemed expedient to prevent evasion of assessment and tax laws and to secure just and equal taxation and improvement in the system of taxation in the state.

(15) To consult and confer with the governor of the state upon the subject of taxation, the administration of the laws in relation thereto and the progress of the work of the department, and to furnish the governor from time to time such assistance and information as the governor may require.

(17) To disseminate from time to time, in such manner as shall best be calculated to attract general public attention, facts and data concerning public expenditures, sources of revenue, responsibility for levies, the value and relative tax burdens borne by different classes of property, and other useful and valuable information concerning the subject of taxation and public finance.

(18) To exercise and perform such further powers and duties as may be granted to or imposed upon the department by law.

(19) To annually publish the findings of any assessment ratio studies conducted.

(20) To investigate all delinquent personal property, death and income or franchise taxes and surtaxes in the state and the possibility of the collection of them and to require taxing officials, including town treasurers, county treasurers, sheriffs and district attorneys, to institute proceedings, actions and prosecutions for the collection of delinquent taxes so that the amount of delinquent taxes shall be reduced to the minimum. In carrying out this subsection the department of revenue may examine or cause to be examined by any agent, employee or representative designated by it for that purpose, any books, papers, records or memoranda of any corporation, limited liability company, partnership or individual bearing upon the collection of any delinquent taxes and may require the attendance of the officials of any corporation or limited liability company or of any other person having knowledge in the premises and may take testimony and require proof material for their information upon any matter that they deem of value for the purpose of enforcing the payment of delinquent taxes. The department of revenue may also perform other duties and adopt other procedures that may be necessary to carry out this subsection and direct that proceedings, actions and prosecutions be instituted to enforce the laws relating to the collection of delinquent taxes of every kind. To this end, the department of justice shall, upon the request of the department of revenue, conduct such actions, proceedings or prosecutions or assist the local town, city, village or county officials in them or assist the district attorneys.

(22) To appear by its counsel and represent the state in all matters before the tax appeals commission. Except as provided in ch. 72 and in s. 76.08 (1), the department of justice shall provide legal counsel to appear for the department in all courts, but with the consent of the attorney general a member of the staff of the department may appear for the department.

(24) To administer and enforce chs. 125 and 139.

(25) To settle and dispose of tax cases or issues pending before the tax appeals commission when, in the judgment of the department of revenue, such action is warranted in the best interests of the state; and, with the approval of the attorney general, to settle and dispose of tax cases or issues pending in the courts.

(26) To enter into reciprocal agreements with the appropriate official in any other state having a similar law relating to information obtained from returns as authorized by s. 71.78 (3).

(27) With regard to taxes and fees administered by the department, to write off from the records of the department tax, fee, and economic development surcharge liabilities, following a determination by the secretary of revenue that they are not collectible. Taxes written off under this subsection remain legal obligations.

(28) To enter into contracts to collect delinquent Wisconsin taxes. The department shall allocate a portion of the amounts collected under ch. 78 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the transportation fund under s. 25.40. The department shall allocate a portion of the amount collected under chs. 71, 72, 77 and 139 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the general fund.

(28d) To enter into a contract to participate in the multistate tax commission audit program. The department shall allocate a portion of the amount collected under chs. 71 and 77 through the contract to the appropriation under s. 20.566 (1) (hn) to pay the fees necessary to participate in the multistate tax commission audit program. The department shall allocate the remainder of such collections to the general fund.

(28e) To participate as a member state of the streamlined sales tax governing board which administers the agreement, as defined in s. 77.65 (2) (a), and includes having the governing board enter into contracts that are necessary to implement the agreement on behalf of the member states, and to allocate a portion of the amount collected under ch. 77 through the agreement to the appropriation under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing board. The department shall allocate the remainder of such collections to the general fund.

(28m) To enter into contracts for database and data processing services for audits of occasional sales of motor vehicles.

(29) To provide on income tax forms a place for taxpayers to indicate the school district in which they reside and information that will assist persons in identifying the correct school district.

(30) To analyze the data provided under sub. (29), after consultation with the department of public instruction and the legislative fiscal bureau, and to notify the presiding officers of the houses of the legislature and the cochairpersons of the joint committee on finance of the results of the analysis.

(31) To compile and to furnish to the clerks of all taxation districts the information required under s. 74.09.

(33m) To collect, as taxes under ch. 71 are collected, from each person who owes to the department of revenue delinquent taxes, fees, interest or penalties, a fee for each delinquent account equal to $35 or 6.5 percent of the taxes, fees, interest and penalties owed as of the due date specified in the assessment, notice of amount due or notice of redetermination on that account, whichever is greater. The department of revenue shall deposit into the general fund as general purpose revenue–earned all fees collected under this subsection.

(33p) To collect, as taxes under ch. 71 are collected, from each person who owes to the department of revenue delinquent taxes, fees, interest or penalties, a $20 fee for each delinquent taxpayer who enters into an agreement with the department of revenue to pay in installments the taxpayer's delinquent taxes, including fees, interest or penalties and to collect costs incurred to the department of revenue for court actions that are related to the collection of delinquent taxes. The department of revenue shall deposit into the general fund as general purpose revenue–earned all fees and costs collected under this subsection.

(34) To extend any deadline in regard to the taxes it administers for persons designated in section 7508 (a) of the internal revenue code for the length of time specified in that section.

(35) To deny a portion of a credit claimed under s. 71.07 (2dm) or (2dx), 71.28 (1dm), (1dx), or (4) (am), 71.47 (1dm), (1dx), or (4) (am), or 76.636 if granting the full amount claimed would violate a requirement under s. 238.385 or s. 560.785, 2009 stats., or would bring the total of the credits granted to that claimant under all of those subsections over the limit for that claimant under s. 238.368, 238.395 (2) (b), or 238.397 (5) (b) or s. 560.768, 2009 stats., s. 560.795 (2) (b), 2009 stats., or s. 560.797 (5) (b), 2009 stats.

(35m) To deny a portion of a credit claimed under s. 71.07 (3g), 71.28 (3g), or 71.47 (3g), if granting the full amount claimed would violate a requirement under s. 238.23 or s. 560.96, 2009 stats., or would bring the total of the credits claimed under ss. 71.07 (3g), 71.28 (3g), and 71.47 (3g) over the limit for all claimants under s. 238.23 (2) or s. 560.96 (2), 2009 stats.

(36) To estimate revenues under subch. VII of ch. 77 and submit to the governor, the joint committee on finance and the chief clerk of each house of the legislature for distribution under s. 13.172 (2), not later than November 20 of each even–numbered year, a report of its estimate of those revenues for the current biennium and the following biennium.

(37) To make refunds in connection with motor vehicles returned to the manufacturers by a consumer, as provided under s. 218.0171 (2) (e) and (f).

(38) To require each operator of a swap meet, flea market, craft fair or similar event, as defined by rule, to report to the department the name, address, social security number and, if available, the seller's permit number of each vendor selling merchandise at the swap meet, flea market, craft fair or similar event that he or she operates. If any operator fails to comply with the requirements under this subsection, the department of revenue, after notifying that operator of its intent to do so, shall impose a

penalty of $200 for the first failure and $500 for each subsequent failure. The department shall assess and collect the penalties under this subsection as it assesses and collects additional income and franchise taxes.

(40m) To include on the form on which a homestead credit is claimed information about the property tax deferral program.

(45) To direct the assessor of any taxation district to deny specific claims for property tax exemption or to terminate specific existing property tax exemptions prospectively. After receiving such direction, the assessor shall enter the property on the next assessment roll.

(47) To absolve a taxpayer of liability for interest and penalties if the taxpayer shows that the liability resulted because he or she relied on an erroneous, written statement made by an employee of the department acting in an official capacity and that the taxpayer had given the employee adequate and accurate information.

(48) To provide the public with information concerning the availability of the earned income tax credit, and the availability of the federal earned income tax credit under section 32 of the internal revenue code, under criteria, and with a description of the methods that the department uses to provide the information, that the department shall promulgate as rules.

(49) To appoint a farmland advisory council that shall do the following:

(a) Advise the department of revenue on the supplement to the assessment manual's guidelines for assessing agricultural land, and on rules to implement use–value assessment of agricultural land and to reduce expansion of urban sprawl.

(c) Annually report to the legislature on the usefulness of use–value assessment as a way to preserve farmland and to reduce the conversion of farmland to other uses.

(d) Recommend a method to adjust the shared revenue formula and other formulas one factor of which is equalized value to compensate counties, municipalities and school districts that are adversely affected by use–value assessment.

(dg) Calculate the federal land bank's 5–year average capitalization rate and per–acre values based on estimated income generated from rental for agricultural use.

(dm) Carry out its duties in cooperation with the strategic growth task force of the governor's land use council.

(e) Include the following members:

1. The secretary of revenue, who shall serve as chairperson.
2. An agribusiness person.
3. A person knowledgeable about agricultural lending practices.
4. An agricultural economist employed by the University of Wisconsin System.
5. A mayor of a city that has a population of more than 40,000.
6. An expert in the environment.
7. A nonagricultural business person.
8. A professor of urban studies.
9. A farmer.

(50) With the approval of the joint committee on finance, to establish fees for obtaining a business tax registration certificate, which, except as provided in s. 73.0302, is valid for 2 years, and for renewing that certificate and, except as provided in ss. 73.0302 and 73.0303, shall issue and renew those certificates if the person who wishes to obtain or renew a certificate does all of the following:

(a) Applies on a form that the department prescribes.

(b) Sets forth the name under which the applicant intends to operate, the location of the applicant's place of operations and the other information that the department requires.

(c) In the case of an applicant who is an individual and who has a social security number, sets forth the social security number of the applicant or, in the case of an applicant who is an individual and who does not have a social security number, submits a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A certificate issued in reliance upon a false statement submitted under this paragraph is invalid.

(d) In the case of a sole proprietor, signs the form or, in the case of other persons, has an individual who is authorized to act on behalf of the person sign the form, or, in the case of a single–owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code, the person is the owner. If an owner elects under s. 77.58 (3) (a) to file a separate electronic return for each of the owner's disregarded entities, each disregarded entity shall obtain a certificate under this subsection. Any person who may register under this subsection may designate an agent, as defined in s. 77.524 (1) (ag), to register with the department under this subsection in the manner prescribed by the department. In this paragraph, "sign" has the meaning given in s. 77.51 (17r).

(50b) To waive the fee established under sub. (50) for applying for and renewing the business tax registration certificate, if the person who is applying for or renewing the certificate is not required for purposes of ch. 77 to hold such a certificate.

(50m) To enter into a memorandum of understanding with the department of children and families under s. 49.857. The department of revenue shall suspend, refuse to issue or refuse to renew any certificate issued under sub. (50) as provided in the memorandum of understanding entered into under s. 49.857. Notwithstanding ss. 71.78 and 77.61 (5), the department of revenue shall disclose to the department of children and families the social security number of any applicant for a certificate issued under sub. (50) as provided in the memorandum of understanding.

(51) To revoke all permits, licenses and certificates that the department has issued to a person who fails timely to renew a certificate under sub. (50), and to reissue those permits, licenses and certificates if the person renews the certificate under sub. (50).

(52) (a) To enter into agreements with the Internal Revenue Service that provide for offsetting state tax refunds against federal tax obligations; and to charge a fee up to $25 per transaction for such offsets; and offsetting federal tax refunds against state tax obligations, and collecting the offset cost from the debtor, if the agreements provide that setoffs under ss. 71.93 and 71.935 occur before the setoffs under those agreements.

(b) To enter into agreements with the federal department of the treasury that provide for offsetting state payments against federal nontax obligations; and to charge a fee up to $25 per transaction for such offsets; and offsetting federal payments, as authorized by federal law, against state tax and nontax obligations, and collecting the offset cost from the debtor, if the agreements provide that setoffs under par. (a) and ss. 71.93 and 71.935 occur before the setoffs under this paragraph. The agreement shall provide that the federal department of the treasury may deduct a fee from each administrative offset and state payment offset. For purposes of this paragraph "administrative offset" is any offset of federal payments to collect state debts and "state payment offset" is any offset of state payments to collect federal nontax debts.

(52m) To enter into agreements with other states that provide for offsetting state tax refunds against tax and nontax obligations of other states, and of the local governmental units within those states, and offsetting tax refunds of other states against state tax and nontax obligations, if the agreements provide that setoffs under ss. 71.93 and 71.935 occur before the setoffs under those agreements.

(52n) To enter into agreements with federally recognized tribes located in this state that provide for offsetting state tax refunds against tribal obligations and to charge a fee up to $25 per transaction to the debtor for the administrative costs of such setoffs. The administrative costs collected under this subsection shall be credited to the appropriation under s. 20.566 (1) (h). Setoffs under ss. 71.93, 71.935, and 73.03 (52) shall occur before set-

offs under this subsection. Any legal proceeding to contest a setoff under this subsection shall be brought against the tribe under the process established by the tribe.

(53) To enter into agreements with direct marketers about the collection of state and local sales taxes and use taxes.

(54) To publish instructional material that provides information to persons who wish to object to valuations under s. 70.47 and to make available that material to taxation districts.

(55) To provide or approve suitable training sessions at suitable times and instructional material for board of review members.

(56) To work with the Internal Revenue Service and the University of Wisconsin–Extension to undertake a program that accomplishes all of the following:

(a) Promotes volunteering among the state's financial and legal professionals in the volunteer income tax assistance program.

(b) Provides training for the volunteers.

(c) Assists individuals who are eligible to participate in the volunteer income tax assistance program and who reside in rural and underserved areas.

(57) To create, and update, a manual on the tax incremental finance program under s. 66.1105. The manual shall contain the rules relating to the program, common problems faced by cities and villages under the program, possible side effects of the use of tax incremental financing, and any other information the department determines is appropriate. The department may consult with, and solicit the views of, any interested person while preparing or updating the manual.

(58) (a) Notwithstanding any provision of ss. 178.1141 to 178.1145, 179.76, 180.1161, 181.1161, and 183.1207, to treat, for state tax purposes, the conversion of a business entity to another form of business entity under s. 178.1141, 179.76, 180.1161, 181.1161, or 183.1207 in the same manner as the conversion is treated for federal tax purposes.

(b) Notwithstanding any provision of ss. 178.1121 to 178.1125, 179.77, 180.1101, 180.1104, 181.1101, 181.1104, and 183.1201, to treat, for state tax purposes, the merger of a business entity with one or more business entities under s. 178.1121, 179.77, 180.1101, 180.1104, 181.1101, 181.1104, or 183.1201 in the same manner as the merger is treated for federal tax purposes.

(c) Notwithstanding any provision of ss. 178.1131 to 178.1135, to treat, for state tax purposes, an interest exchange under s. 178.1131 in the same manner as the interest exchange is treated for federal tax purposes.

(d) Notwithstanding any provision of ss. 178.1151 to 178.1155, to treat, for state tax purposes, a domestication under s. 178.1151 in the same manner as the domestication is treated for federal tax purposes.

(59) To enforce ss. 945.03 (2m) and 945.04 (2m).

(60) To enforce s. 945.05 (1m), in cases in which the department determines that the video gambling machine involved is likely to be used in connection with a violation of s. 945.03 (2m) or 945.04 (2m).

(61) To do all of the following related to the Uniform Sales and Use Tax Administration Act:

(a) Certify compliance with the agreement, as defined in s. 77.65 (2) (a).

(b) Pursuant to the agreement, as defined in s. 77.65 (2) (a), certify certified service providers, as defined in s. 77.51 (1g), and certified automated systems, as defined in s. 77.524 (1) (am).

(c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish performance standards and eligibility criteria for a seller that sells tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services in at least 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has total annual sales revenue of at least $500,000,000; that has a proprietary system that calculates the amount of tax owed to each taxing jurisdiction in which the seller sells tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d) or taxable services; and that has entered into a performance agreement with the states that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of this paragraph, "seller" includes an affiliated group of sellers using the same proprietary system to calculate the amount of tax owed in each taxing jurisdiction in which the sellers sell tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services.

(d) Issue a tax identification number to a person who claims an exemption under subch. III or V of ch. 77 and who is not required to register with the department for the purposes of subch. III or V of ch. 77 and establish procedures for the registration of such a person.

(e) Maintain a database that is accessible to sellers and certified service providers, as defined in s. 77.51 (1g), that indicates whether items defined in accordance with the agreement, as defined in s. 77.65 (2) (a), are taxable or nontaxable.

(f) Maintain a database that is accessible to sellers and certified service providers, as defined in s. 77.51 (1g), and available in a downloadable format approved by the governing board of the agreement, as defined in s. 77.65 (2) (a), that indicates tax rates, taxing jurisdiction boundaries, and zip code or address assignments related to the administration of taxes imposed under subchs. III and V of ch. 77. The database shall be provided at no cost and be available to sellers and certified service providers, as defined in s. 77.51 (1g), no later than the first day of the month prior to the first day of the calendar quarter.

(g) Set forth the information that the seller shall provide to the department for tax exemptions claimed by purchasers and establish the manner in which a seller shall provide such information to the department.

(h) Provide monetary allowances, in addition to the retailer's discount provided under s. 77.61 (4) (c), to certified service providers, as defined in s. 77.51 (1g), and sellers that use certified automated systems, as defined in s. 77.524 (1) (am), or proprietary systems, pursuant to the agreement, as defined in s. 77.65 (2) (a).

(62) To prepare and maintain a list of all persons who owe delinquent taxes, including interest, penalties, fees, and costs, to the department, in excess of $5,000, which are unpaid for more than 90 days after all appeal rights have expired; to post the names of persons from this list on the Internet at a site that is created and maintained by the department for this purpose; and to distribute the posted information to Internet search engines so the information is searchable. The Internet site shall list the name, address, type of tax due, and amount of tax due, including interest, penalties, fees, and costs for each person who has one of the delinquent taxpayer accounts, and the Internet site shall contain a special page for the persons who have the 100 largest delinquent taxpayer accounts. Except as otherwise provided in this subsection, the department shall update the Internet site on a quarterly basis, and shall send the updates to the Internet search engines. The department may not post on the Internet or distribute to Internet search engines the name of 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; the Internet posting and Internet search engines shall be updated each business day, as defined in s. 562.01 (3m), to comply with these prohibitions.

(64) To post on the Internet a list of every person who has had a seller's permit revoked under s. 77.52 (11). The Internet site shall list the real name, business name, address, revocation date, type of tax due, and amount due, including interests, penalties, fees, and costs, for each person who has had a seller's permit revoked under s. 77.52 (11). The department shall update the Internet site periodically to add revoked permits and to remove permits that are no longer revoked or for which the permit holder

has made sufficient arrangements with the department so that the permit holder may be issued a monthly seller's permit. The department shall update the Internet site quarterly to remove revoked permits for entities that have been out of business for at least one year.

(65) (a) To enter into agreements with federally recognized American Indian tribes or bands in this state to collect, remit, and provide refunds of the following taxes for activities that occur on tribal lands or are undertaken by tribal members outside of tribal lands:

1. Income taxes imposed under subch. I of ch. 71.
2. Withholding taxes imposed under subch. X of ch. 71.
3. Sales and use taxes under subch. III of ch. 77.
4. Motor vehicle fuel taxes imposed under subch. I of ch. 78.
5. Beverage taxes imposed under subch. I of ch. 139.

(b) For purposes of this subsection, all tax and financial information disclosed during negotiations, or exchanged pursuant to a final agreement, between the department and a federally recognized American Indian tribe or band in this state is subject to the confidentiality provisions under ss. 71.78 and 77.61 (5).

(c) The department shall submit a copy of each agreement negotiated under this subsection to the joint committee on finance no later than 30 days after the agreement is signed by the department and the tribe or band.

(67) To submit a request for a supplement under s. 16.515 for administering the debt collection program under s. 71.93 (8) (b) that includes a detailed plan for implementing the program, a listing of agencies and other entities that would participate in the program, an estimate of the amount of debt collections under the program, and the fees that the debtors would pay under the program.

(68) At the request of the Wisconsin Employment Relations Commission, as provided under s. 111.91 (3q), to determine the average annual percentage change in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the federal department of labor, for the 12 months immediately preceding the request from the Wisconsin Employment Relations Commission.

(69) (a) To, effective on January 1, 2014, implement a program to register businesses for purposes of s. 71.05 (25) and (26). A business shall register electronically with the department each year for which the business desires registration.

(b) A business may register under this subsection if, in the business's taxable year ending immediately before the date of the businesses registration, all of the following apply:

1. The business has at least 2 full–time employees and the amount of payroll compensation paid by the business in this state is equal to at least 50 percent of the amount of all payroll compensation paid by the business. An employee of a professional employer organization, as defined in s. 202.21 (5), or a professional employer group, as defined in s. 202.21 (4), who is performing services for a client is considered an employee solely of the client for purposes of this subdivision.

2. The value of real and tangible personal property owned or rented and used by the business in this state is equal to at least 50 percent of the value of all real and tangible personal property owned or rented and used by the business.

(c) The department may adopt rules for the administration of this subsection.

(d) For each year beginning after December 31, 2013, the department shall compile a list of businesses registered under this subsection and shall make the list available to the public at the department's Internet site.

(71) (a) To estimate the amount of additional revenue reported to the department from the taxes imposed under subch. III of ch. 77 as a result of the United States Supreme Court decision that expands the state's authority to require out–of–state retailers and marketplace providers, as defined in s. 77.51 (7i), to collect and remit the taxes imposed under subch. III of ch. 77 on purchases by Wisconsin residents during the following periods:

1. Beginning on October 1, 2018, and ending on September 30, 2019.

2. Beginning on October 1, 2019, and ending on September 30, 2020.

(b) 1. After the department makes the estimation under par. (a) 1., the department shall determine how much the 1st and 2nd individual income tax rates listed in each bracket under s. 71.06 may be reduced for the taxable year beginning after December 31, 2018, and before January 1, 2020, in order to decrease individual income tax revenue by the amount estimated under par. (a) 1. For purposes of this paragraph, the tax rate reductions shall be calculated so that 50 percent of the estimation under par. (a) 1. is used to reduce the 1st individual income tax rate listed in each bracket and the remaining 50 percent is used to reduce the 2nd individual income tax rate listed in each bracket.

2. After the department makes the estimation under par. (a) 2., the department shall determine how much the 1st and 2nd individual income tax rates listed in each bracket under s. 71.06 may be reduced for the taxable year beginning after December 31, 2019, and before January 1, 2021, in order to decrease individual income tax revenue by the amount estimated under par. (a) 2. For purposes of this paragraph, the tax rate reductions shall be calculated so that 50 percent of the estimation under par. (a) 2. is used to reduce the 1st individual income tax rate listed in each bracket and the remaining 50 percent is used to reduce the 2nd individual income tax rate listed in each bracket.

(c) 1. No later than October 20, 2019, the secretary of revenue shall certify and report the determinations made under pars. (a) 1. and (b) 1. to the secretary of the department of administration, the governor, the joint committee on finance, and the legislative audit bureau and specify with that certification and report that the new tax rates take effect for the taxable year beginning after December 31, 2018, and before January 1, 2020, subject to par. (d) 1.

2. No later than October 20, 2020, the secretary of revenue shall certify and report the determinations made under pars. (a) 2. and (b) 2. to the secretary of the department of administration, the governor, the joint committee on finance, and the legislative audit bureau and specify with that certification and report that the new tax rates take effect for the taxable year beginning after December 31, 2019, and before January 1, 2021, and for each taxable year thereafter, subject to par. (d) 2.

(d) 1. The legislative audit bureau shall review the determinations reported under par. (c) 1. and report its findings to the joint legislative audit committee and the joint committee on finance no later than November 1, 2019. If the legislative audit bureau's review of the determinations reported under par. (c) 1. results in a different calculation of the tax rates than that made under par. (b) 1., the joint committee on finance shall determine which tax rates to apply to the taxable year beginning after December 31, 2018, and before January 1, 2020, and report its determination to the governor, the secretary of administration, and the secretary of revenue no later than November 10, 2019.

2. The legislative audit bureau shall review the determinations reported under par. (c) 2. and report its findings to the joint legislative audit committee and the joint committee on finance no later than November 1, 2020. If the legislative audit bureau's review of the determinations reported under par. (c) 2. results in a different calculation of the tax rates than that made under par. (b) 2., the joint committee on finance shall determine which tax rates to apply to the taxable year beginning after December 31, 2019, and before January 1, 2021, and to each taxable year thereafter, and report its determination to the governor, the secretary of administration, and the secretary of revenue no later than November 10, 2020.

(72) To indicate in a fiscal estimate prepared by the department under s. 13.093 (2) for a bill that affects tax incremental districts or property tax assessments whether the bill will increase or

decrease the increment collection for existing tax incremental districts or whether the bill's effect on increment collection for existing tax incremental districts is indeterminate.

(73) To work with the Internal Revenue Service to undertake a pilot and a permanent program that accomplishes all of the following:

(a) Assist the department in a 2–year pilot program to make monthly payments to eligible claimants of the amounts such claimants would otherwise be eligible to claim under the federal earned income tax credit under section 32 of the Internal Revenue Code. The pilot program shall be for taxable years beginning after December 31, 2018, and before January 1, 2021. If the Internal Revenue Service agrees to assist with the pilot program, the Internal Revenue Service and the department shall enter into an agreement describing the responsibilities and duties of each party. If the Internal Revenue Service and the department are unable to reach an agreement on how the pilot program will operate, this subsection does not apply and may not be enforced.

(b) Under the pilot program, the Internal Revenue Service would determine the amount of earned income tax credit that could likely be claimed by 100 randomly selected residents of Wisconsin for taxable year 2019 and taxable year 2020, based on criteria selected by the Internal Revenue Service. The department and the Internal Revenue Service shall make every effort to ensure that each individual or married couple selected will be eligible to claim the credit for those taxable years, and that the credit amount for which he or she will likely be eligible will be in excess of $600 each year. At the beginning of each taxable year, the Internal Revenue Service would forward to the department the total amount of payments those 100 claimants would likely be eligible to claim for that taxable year, specifying the amounts allotted to each claimant. The department shall deposit such amounts in the general fund.

(c) 1. The department would develop a method to disperse the federal credit amount to each claimant on a periodic basis.

2. For the test group, based on the amount of federal and state earned income tax credit that each claimant would likely be eligible to receive based on his or her estimated taxable year 2019 and 2020 income tax returns, each claimant would receive one–eleventh of his or her likely federal credit amount each month except for the month following the month in which the claimant receives the credit claimed on his or her tax return, from the department, from the general fund, except that the maximum total amount that each claimant could receive under this subdivision, annually, would be two–thirds of his or her likely credit amount. Any excess amount of federal and state credit for which the claimant is eligible could be claimed for that taxable year on his or her federal income tax return, under s. 71.07 (9e), or under the terms of the agreement under par. (a).

3. The department shall also establish a 2nd test group of 100 claimants who are likely to be eligible to claim the earned income tax credit for taxable years 2019 and 2020, who will receive their earned income tax credit after filing their individual income tax returns, and compare their financial stability to that of the other test group.

(d) For taxable years 2019 and 2020, the participants in each of the 2 test groups shall remain the same, to the greatest extent possible.

(e) The department shall develop policies and promulgate rules, if necessary, to ensure that members of each test group are able to continue to claim the credit under s. 71.07 (9e) to the extent that they are eligible to do so.

(f) 1. Subject to subd. 2., for taxable years beginning after December 31, 2020, the department shall make the pilot program described under par. (b) permanent and applicable to all eligible claimants of the earned income tax credit under s. 71.07 (9e) (aj), based on the specifications described under pars. (b) and (c) 2.

2. Subdivision 1. does not apply unless the Internal Revenue Service and the department enter into an agreement describing the responsibilities and duties of each party and an agreement on how the permanent program will operate. If the Internal Revenue Service and the department are unable to reach an agreement on how the permanent program will operate, subd. 1. does not apply and may not be enforced.

(73m) (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.

(74) To provide a one–time reduction from the total tax due in a written notice by the department of an audit determination under s. 77.59 (2) equal to 10 percent of the additional sales tax imposed under s. 77.52 for each year of the audit period, if the annual gross sales of the person being audited are less than $5,000,000 for each year of the audit period and, at the time that the department sends notification of examination under s. 77.59 (2), the department has received all returns required under ch. 77 from the person being audited for the entire audit period. Each person eligible for a reduction under this subsection is entitled to only one such reduction.

History: 1971 c. 40, 215; 1973 c. 90; 1975 c. 39; 1977 c. 143; 1977 c. 196 s. 130 (7); 1977 c. 313; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 350; 1981 c. 20; 1981 c. 79 s. 18; 1983 a. 275 s. 15 (4); 1983 a. 524; 1983 a. 538 s. 269 (3); 1985 a. 12, 29, 273; 1987 a. 4, 27, 186; 1987 a. 312 s. 17; 1987 a. 328, 378, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 74, 335; 1991 a. 39, 219, 313, 316; 1993 a. 16, 112, 205, 490; 1995 a. 27 ss. 3434g to 3440m, 9145 (1); 1995 a. 209, 233; 1997 a. 27, 35, 191, 237, 252; 1999 a. 9, 31, 185; 2001 a. 16, 44, 104, 107, 109; 2003 a. 33, 127; 2005 a. 25, 259; 2007 a. 20, 86; 2009 a. 2, 28, 180, 401; 2011 a. 10, 32, 257; 2013 a. 20, 54; 2015 a. 55, 216, 254, 295; 2017 a. 59, 270, 324, 358, 368; 2019 a. 10.

The Department of Revenue's construction of a tax law in an official technical information memorandum estopped the department from collecting a tax. DOR v. Family Hospital, 105 Wis. 2d 250, 313 N.W.2d 828 (1982).

The Department of Revenue's subpoena authority does not permit it to take possession of subpoenaed records for more than one business day; however, the department may repeatedly subpoena records until its investigation is completed. State v. Kielisch, 123 Wis. 2d 125, 365 N.W.2d 904 (Ct. App. 1985).

73.0301 License denial, nonrenewal, discontinuation, suspension and revocation based on tax delinquency.

(1) DEFINITIONS. In this section:

(a) "Credential" has the meaning given in s. 440.01 (2) (a).

(b) "Credentialing board" means a board, examining board or affiliated credentialing board in the department of safety and professional services that grants a credential.

(c) "Liable for delinquent taxes" means that a person has exhausted all legal remedies to challenge the assertion that the person owes taxes, including penalties, interest, fees and costs, under ch. 71, 72, 76, 77, 78, 125 or 139 and sufficient time has elapsed so that the person is delinquent in the payment of those taxes.

(d) "License" means any of the following:

1. An approval specified in s. 29.024 (2r) or a license specified in s. 169.35.

2. A license issued by the department of children and families under s. 48.66 (1) (a) to a child welfare agency, group home, shelter care facility, or child care center, as required by s. 48.60, 48.625, 48.65, or 938.22 (7).

3. A license, certificate of approval, provisional license, conditional license, certification, certification card, registration, permit, training permit or approval specified in s. 50.35, 50.49 (6) (a) or (10), 51.038, 51.04, 51.42 (7) (b) 11., 51.421 (3) (a), 51.45 (8), 146.40 (3), (3g), or (3m), 254.176, 254.20 (3), 256.15 (5) (a) or (b), (6g) (a), (7), or (8) (a) or (f) or 343.305 (6) (a) or a license for operation of a campground specified in s. 97.67 (1).

3m. A license or certificate issued by the department of workforce development under s. 102.17 (1) (c), 103.275 (2) (b), 103.34 (3) (c), 103.91 (1), 103.92 (3), 104.07 (1) or (2), or 105.13 (1).

5. An occupational license, as defined in s. 101.02 (1) (a) 2.

6. A license or certificate of registration issued by the department of financial institutions, or a division of it, under ss. 138.09, 138.12, 138.14, 202.12 to 202.14, 202.22, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

6m. A certificate or registration issued under s. 168.23 (3).

7. A license described in s. 218.0114 (14) (a) and (g), a license described in s. 218.0114 (14) (b), (c) or (e), a license issued under s. 218.11, 218.12, 218.22, 218.32, 218.41, 343.61 or 343.62, a buyer identification card issued under s. 218.51 or a certificate of registration issued under s. 341.51.

7m. A license issued under s. 562.05 or 563.24.

8. A license, registration or certification specified in s. 299.07 (1) (a).

9. A credential.

10. A license or permit granted by the department of public instruction.

11. A license to practice law.

12. A license issued under s. 628.04, 628.92 (1), 632.69 (2), or 633.14, a registration under s. 628.92 (2), or a temporary license issued under s. 628.09.

13. A license issued by the ethics commission under s. 13.63 (1).

14. A permit under s. 170.12.

(e) "Licensing department" means the department of administration; the department of agriculture, trade and consumer protection; the board of commissioners of public lands; the department of children and families; the ethics commission; the department of financial institutions; the department of health services; the department of natural resources; the department of public instruction; the department of safety and professional services; the department of workforce development; the office of the commissioner of insurance; or the department of transportation.

(f) "Nondelinquency certificate" means a certificate that the department of revenue issues to a person and that states that the person is not delinquent in the payment of taxes, including penalties, interest, fees and costs, under ch. 71, 72, 76, 77, 78, 125 or 139.

(2) DUTIES AND POWERS OF LICENSING DEPARTMENTS. (a) Each licensing department and the supreme court, if the supreme court agrees, shall enter into a memorandum of understanding with the department of revenue under sub. (4) (a) that requires the licensing department or supreme court to do all of the following:

1. Request the department of revenue to certify whether an applicant for a license or license renewal or continuation is liable for delinquent taxes. With respect to an applicant for a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision. This subdivision does not apply to the department of transportation with respect to licenses described in sub. (1) (d) 7.

2. Request the department of revenue to certify whether a license holder is liable for delinquent taxes. With respect to a holder of a license granted by a credentialing board, the department of safety and professional services shall make a request under this subdivision.

(b) Each licensing department and the supreme court, if the supreme court agrees, shall do all of the following:

1. a. If, after a request is made under par. (a) 1. or 2., the department of revenue certifies that the license holder or applicant for a license or license renewal or continuation is liable for delinquent taxes, revoke the license or deny the application for the license or license renewal or continuation. The department of transportation may suspend licenses described in sub. (1) (d) 7. in lieu of revoking those licenses. A suspension, revocation or denial under this subd. 1. a. is not subject to administrative review or, except as provided in subd. 2. and sub. (5) (am), judicial review. With respect to a license granted by a credentialing board, the department of safety and professional services shall make a revocation or denial under this subd. 1. a. With respect to a license to practice law, the department of revenue shall not submit a certification under this subd. 1. a. to the supreme court until 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.

b. 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 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 send a notice under this subd. 1. b. With respect to a license to practice law, the department of revenue shall 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.

2. Except as provided in subd. 2m., if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after a hearing under sub. (5) (a), affirm a suspension, revocation or denial under subd. 1. a. A license holder or applicant may seek judicial review under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County, of an affirmation of a revocation or denial under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall make an affirmation under this subdivision.

2m. With respect to a license to practice law, if notified by the department of revenue that the department of revenue has affirmed a certification of tax delinquency after any requested review under sub. (5) (a) and (am), decide whether to suspend, revoke, or deny a license to practice law.

3. If a person submits a nondelinquency certificate issued under sub. (5) (b) 1., reinstate the license or grant the application for the license or license renewal or continuation, unless there are other grounds for suspending or revoking the license or for denying the application for the license or license renewal or continuation. If reinstatement is required under this subdivision, a person is not required to submit a new application or other material or to take a new test. No separate fee may be charged for reinstatement of a license under this subdivision. With respect to a license granted by a credentialing board, the department of safety and professional services shall reinstate a license or grant an application under this subdivision.

4. If a person whose license has been suspended or revoked or whose application for a license or license renewal or continuation has been denied under subd. 1. a. submits a nondelinquency certificate issued under sub. (3) (a) 2., reinstate the license or grant the person's application for the license or license renewal or continuation, unless there are other grounds for not reinstating the license or for denying the application for the license or license renewal or continuation. With respect to a license granted by a credentialing board, the department of safety and professional services shall reinstate a license or grant an application under this subdivision.

(c) 1. Each licensing department and the supreme court may require a holder of a license to provide the following information upon request:

a. If the license holder is an individual and has a social security number, the license holder's social security number.

am. If the applicant is an individual and does not have a social security number, a statement made or subscribed under oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this subd. 1. am. is invalid.

b. If the license holder is not an individual, the license holder's federal employer identification number.

2. A licensing department may not disclose any information received under subd. 1. a. or b. to any person except to the department of revenue for the purpose of requesting certifications under par. (a) 1. or 2. in accordance with the memorandum of understanding under sub. (4) and administering state taxes, to the department of workforce development for the purpose of requesting certifications under s. 108.227 (2) (a) 1. or 2. in accordance with the memorandum of understanding under s. 108.227 (4) and administering the unemployment insurance program, and to the department of children and families for the purpose of administering s. 49.22.

(3) DUTIES AND POWERS OF DEPARTMENT OF REVENUE. (a) The department of revenue shall do all of the following:

1. Enter into a memorandum of understanding with each licensing department and the supreme court, if the supreme court agrees, under sub. (4) (a).

2. Upon the request of any applicant for issuance, renewal, continuation or reinstatement of a license whose license has been previously revoked or whose application for a license or license renewal or continuation has been previously denied under sub. (2) (b) 1. a., issue a nondelinquency certificate to the applicant if the applicant is not liable for delinquent taxes.

(b) If a request for certification is made under sub. (2) (a) 1. or 2., the department of revenue may, in accordance with a memorandum of understanding entered into under par. (a) 1., certify to the licensing department or the supreme court that the applicant or license holder is liable for delinquent taxes.

(4) MEMORANDUM OF UNDERSTANDING. (a) Each memorandum of understanding shall include procedures that do all of the following:

1. Establish requirements for making requests under sub. (2) (a) 1. and 2., including specifying the time when a licensing department or the supreme court shall make requests under sub. (2) (a) 1. and 2., and for making certifications under sub. (3) (b).

2. Implement the requirements specified in sub. (2) (b) 3. and 4.

(b) Factors such as the need to issue licenses in a timely manner, the convenience of applicants, the impact on collecting delinquent taxes, the effects on program administration and whether a suspension, revocation or denial under sub. (2) (b) 1. a. will have an impact on public health, safety or welfare or the environment shall be considered in establishing requirements under par. (a) 1.

(5) HEARING. (a) The department of revenue shall conduct a hearing requested by a license holder or applicant for a license or license renewal or continuation under sub. (2) (b) 1. b. or by an applicant for certification or recertification or a certificate holder under s. 73.03 (50) or 73.09 (7m) (b) to review a certification or determination of tax delinquency that is the basis of a denial or revocation of a license in accordance with this section or of a certificate, certification or recertification under s. 73.03 (50) or 73.09 (7m). A hearing under this paragraph is limited to questions of mistaken identity of the license or certificate holder or applicant and of prior payment of the delinquent taxes for which the department of revenue certified or determined the license or certificate holder or applicant is liable. At a hearing under this paragraph, any statement filed by the department of revenue, the licensing department or the supreme court, if the supreme court agrees, may be admitted into evidence and is prima facie evidence of the facts that it contains. Notwithstanding ch. 227, a person entitled to a hearing under this paragraph is not entitled to any other notice, hearing or review, except as provided in par. (am) and sub. (2) (b) 2.

(am) If a person who holds a license to practice law or who is an applicant for a license to practice law receives a hearing under par. (a) to review a certification or determination of tax delinquency that is the basis for a denial, suspension, or revocation of a license to practice law and such certification or determination is affirmed as a result of the hearing under par. (a), the person may seek judicial review of the certification or determination of tax delinquency under ss. 227.52 to 227.60, except that the review shall be in the circuit court for Dane County.

(b) After a hearing conducted under par. (a) or, in the case of a determination related to a license to practice law, after a hearing under par. (a) or, if the hearing is appealed, after judicial review under par. (am), the department of revenue shall do one of the following:

1. Issue a nondelinquency certificate to a license holder or an applicant for a license or license renewal or continuation if the department determines that the license holder or applicant is not liable for delinquent taxes. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03 (50) or 73.09 (7m) (b), the department shall grant a certification or recertification or reinstate a certification if the department determines that the applicant or certificate holder is not liable for delinquent taxes, unless there are other grounds for denying the application or revoking the certification.

2. Provide notice that the department of revenue has affirmed its certification of tax delinquency to a license holder; to an applicant for a license, a license renewal or a license continuation; and to the licensing department or the supreme court, if the supreme court agrees. For a hearing requested by an applicant for certification or recertification or a certificate holder under s. 73.03 (50), or 73.09 (7m) (b), the department of revenue shall provide notice to the applicant or certificate holder that the department of revenue has affirmed its determination of tax delinquency.

History: 1997 a. 237 ss. 301, 307, 532; 1999 a. 9, 31, 32, 186; 2001 a. 56; 2005 a. 25; 2007 a. 1; 2007 a. 20 ss. 2155 to 2158, 9121 (6) (a); 2007 a. 130, 196; 2009 a. 2, 3, 185, 344, 405; 2011 a. 32; 2013 a. 20, 36; 2013 a. 173 s. 33; 2013 a. 357; 2015 a. 55, 118, 258; 2017 a. 324, 331.

73.0302 Liability for delinquent taxes. (1) If the department of revenue determines that an applicant for certification or recertification under s. 73.03 (50) or a person who holds a certificate issued under s. 73.03 (50) is liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department of revenue may deny the application or revoke the certificate. Except as provided in sub. (3), a denial or revocation under this subsection is not subject to judicial review.

(2) If the department of revenue denies an application or revokes a certificate under sub. (1), the department shall 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 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).

(3) If, after a hearing under s. 73.0301 (5) (a), the department of revenue affirms a determination under sub. (1) that an applicant or certificate holder is liable for delinquent taxes, the department shall affirm its denial or revocation. An applicant or certificate holder may seek judicial review under ch. 227 in the circuit court for Dane County of an affirmation by the department of a denial or revocation under this subsection.

(4) If, after a hearing under s. 73.0301 (5) (a), the department of revenue determines that a person whose certificate is revoked under sub. (1) is not liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department shall reinstate the certificate. The department may not charge a fee for reinstatement of a certificate under this subsection.

History: 1997 a. 237; 2017 a. 324.

73.0303 Personal renewable fuel production. The department may not require a person to obtain a business tax registration certificate related to the production or use of renewable fuel that is exempt under s. 78.01 (2n) from the tax imposed under s. 78.01 (1).

History: 2009 a. 401.

73.0305 Revenue limits calculations. The department of revenue shall annually determine and certify to the state superintendent of public instruction, no later than the 4th Monday in June, the allowable rate of increase under subch. VII of ch. 121. The allowable rate of increase is the percentage change, if not negative, in the consumer price index for all urban consumers, U.S. city average, between the preceding March 31 and the 2nd preceding March 31, as computed by the federal department of labor.

History: 1993 a. 16; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2009 a. 28.

73.0306 Disregarded entities. With regard to a single–owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code, any notice that the department of revenue sends to the owner or to the entity is considered a notice sent to both and both are liable for any amounts due as specified in the notice. This section applies to all laws administered by the department.

History: 2017 a. 58.

73.031 Arrest powers. A special agent of the department of revenue who has been certified as a law enforcement officer by the law enforcement standards board and who is on duty may arrest a person if the special agent believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state, that a felony warrant has been issued in another state, that the person is violating or has violated s. 945.03 (2m) or 945.04 (2m), or that the person is violating or has violated s. 945.05 (1m) in a case in which the department determines that the video gambling machine involved is likely to be used in connection with a violation of s. 945.03 (2m) or 945.04 (2m) or if a crime has been committed in the presence of the special agent. The special agent shall cause the person arrested and the documents and reports pertaining to the arrest to be delivered to the chief of police or sheriff in the jurisdiction where the arrest is made. The special agent shall be available as a witness for the state. A special agent acting under this section is an employee of the department and is subject to its direction, benefits and legal protection.

History: 1991 a. 39; 2003 a. 33.

73.035 Private letter rulings. (1) In this section, "department" means the department of revenue.

(2) Upon receipt of a request, in the form prescribed by the department, from a person who requests a ruling about facts relating to a tax that the department administers, the department may issue a private letter ruling. Rulings under this section:

(a) May be published if the department decides to do so.

(b) May be edited by the requester as to types of information specified by the department, if that editing is submitted to the department before the deadline that the department establishes and if the department approves the editing.

(c) Do not bind the requester.

(d) May not be appealed.

(e) Do not preclude application for a declaratory ruling under s. 227.41.

(3) Any person who receives a ruling under this section shall attach a copy of it to all of that person's tax returns to which it is relevant.

(4) Rulings under this section and all information related to them are subject to the confidentiality provisions for the tax relevant to the request, except that if a ruling has been edited under sub. (2) (b), or the deadline for editing set by the department has expired, and if the ruling has been published by the department, the published rulings are not subject to those confidentiality provisions.

(5) The department's decision not to issue, or not to publish, a ruling under this section may not be appealed.

History: 1987 a. 399.

73.04 Hearings, witnesses. (1) CONTEMPTS. If any person unlawfully fails to obey any subpoena to appear before the department of revenue or before the tax appeals commission, or unlawfully refuses to testify, such failure or refusal shall be reported to the attorney general and the department of justice shall institute contempt proceedings against such person.

(2) FEES. Officers who serve subpoenas, and witnesses attending hearings at the instance of the department, shall receive like compensation as officers and witnesses in the circuit court. Such compensation shall be charged to the proper appropriation for the department of revenue.

(3) SPECIAL INVESTIGATIONS. The department of revenue may appoint any employee to act for it to investigate and make report to the department upon any matter upon which the department is required to act, and such employee shall have authority to hold hearings, administer oaths, take testimony and perform all other duties necessary to bring such matter before the department for final adjudication and determination.

A taxpayer subpoenaed by the Department of Revenue has limited discovery rights. State v. Beno, 99 Wis. 2d 77, 298 N.W.2d 405 (Ct. App. 1980).

73.05 Assessment districts; supervisors; duties. (1) The state shall be divided into income assessment districts, property assessment districts, by the department of revenue, but in no instance shall a county be divided.

(2) The department of revenue shall select and appoint a supervisor of equalization for each property assessment district in the state. Each supervisor shall be a citizen and an elector of this state, but need not be a resident of the district in which appointed to serve. So far as practicable, preference shall be given in making such appointments to residents of the districts.

(3) The department may transfer any supervisor of equalization from one district to another.

History: 1973 c. 90; 1977 c. 29 s. 1647 (15); 1977 c. 143, 272; 1981 c. 20; 1983 a. 275 s. 15 (3).

Cross–reference: See also ss. Tax 1.01, 12.06, and 12.07, Wis. adm. code.

73.06 Supervision of assessments; supervisors; appointments and duties. (1) The department of revenue, through its supervisors of equalization, shall have complete supervision and direction of the work of the local assessors. It shall annually, or more often if deemed necessary at a time which in its judgment is best calculated to obtain the ends sought, call a meeting of all local assessors for conference and instruction relative to their duties in the valuation and assessment of property. The department of revenue may also call a similar meeting of local clerks and other officials for conference and instruction relative to their duties in the valuation and assessment of property. Each official upon notice by mail from the supervisor shall attend the meeting, and shall receive travel expenses from his or her residence to the meeting site and return and the compensation and mileage that

the board establishes, but not less than $5 per day and 6 cents per mile; except that in counties having a population of 750,000 or more, no compensation, travel expense or mileage shall be allowed. This compensation shall be paid out of the treasury of the county in which the local official resides upon the certificate of the supervisor of equalization showing attendance and travel, as certificates of witnesses and jurors are paid.

(2) The department of revenue, through its supervisors of equalization shall have access to all public records, books, papers and offices throughout each district and shall make a full and complete examination of them and investigate all other matters and subjects relative to the assessment and taxation of general property therein.

(3) The department of revenue, through its supervisors of equalization, shall examine and test the work of assessors during the progress of their assessments and ascertain whether any of them is assessing property at other than full value or is omitting property subject to taxation from the roll. The department and such supervisors shall have the rights and powers of a local assessor for the examination of persons and property and for the discovery of property subject to taxation. If any property has been omitted or not assessed according to law, they shall bring the same to the attention of the local assessor of the proper district and if such local assessor shall neglect or refuse to correct the assessment they shall report the fact to the board of review. All disputes between the department, municipalities, and property owners about the taxability or value of the property under s. 70.995 (12r) shall be resolved by using the procedures under s. 70.995 (8).

(4) If the department of revenue ascertains, or has good reason to believe, that any assessor is guilty of a violation of law, it may make a complaint to the circuit court for the removal of the assessor. The district attorney shall attend and prosecute the proceedings for removal.

(5) The department of revenue through its supervisor of equalization shall make a report to the county board of each county showing in detail the work of local assessors in their several districts, the failure, if any, of such assessors to comply with the law, the relative assessed and full value of property in each taxation district, and all information and statistics that may be obtained. Such report shall be filed with the county clerk at least 15 days before the annual meeting of the county board.

(7) The department of revenue shall call a meeting of the supervisors of equalization at the capitol at a specified time in each year, for a conference on the subjects of taxation and the administration of the laws, and for the instruction of such officers in their duties.

(8) For purposes of this section "local assessor" includes the county assessors under s. 70.99.

History: 1973 c. 90; 1977 c. 449; 1981 c. 20; 1983 a. 275 ss. 11, 15 (3) to (6); 1983 a. 538 s. 269 (3); 1987 a. 399; 1997 a. 237; 2001 a. 16; 2017 a. 59; 2017 a. 207 s. 5.

Cross–reference: See s. 17.14 on removal of assessors from office.

Cross–reference: See also ss. Tax 12.06 and 12.07, Wis. adm. code.

73.07 District offices, supplies, expenses. (1) Office furniture and equipment furnished to income assessment district and branch offices by counties prior to July 1, 1986, shall remain in those offices until the department of revenue determines that the furniture and equipment are no longer needed.

(2) Office furniture and equipment furnished to supervisors of equalization prior to January 1, 1974, shall continue to be furnished until no longer required by them.

(3) The county board of any county shall provide rooms for the use of the tax appeals commission upon the request of the chairperson of the commission. Hearings of the commission may also be held in the department's district income tax office when the chairperson of the commission deems it advisable.

History: 1971 c. 42; 1973 c. 90; 1977 c. 143; 1979 c. 110 s. 60 (13); 1983 a. 275 s. 15 (4); 1983 a. 538 s. 269 (3); 1985 a. 29; 1993 a. 184.

73.09 Assessor certification. (1) LOCAL ASSESSMENT PERSONNEL. The department of revenue shall establish by rule the level of certification under sub. (3), the continuing education requirements under sub. (4), examinations under sub. (5), and the requirements for and responsibilities associated with temporary certification under sub. (6) for all assessors and assessment personnel of each local unit of government and for county assessor systems under s. 70.99.

(2) DEPARTMENT OF REVENUE ASSESSMENT PERSONNEL. The requirements established for local assessment personnel under sub. (1) shall also apply to department of revenue assessment personnel. The division of personnel management in the department of administration with the assistance of the department of revenue shall determine the position classifications for which certification shall apply within the department of revenue. The first level of certification shall be obtained within a timeframe consistent with the department of revenue's employment practices. The department of revenue in consultation with the division of personnel management shall establish requirements for obtaining higher levels of assessor certification.

(3) LEVELS OF CERTIFICATION. The levels of certification for assessors and assessment personnel shall be commensurate with the degree of complexity of the various classes of property within each taxation district.

(4) RECERTIFICATION. (a) All certifications issued prior to January 1, 1981, are valid for 10 years from the date of issuance. All certifications issued on or after January 1, 1981, but before August 15, 1991, expire on the 6th June 1 following the date of issuance. All certifications issued on or after August 15, 1991, expire 5 years after the date on which they are issued.

(b) Persons may be recertified by attending at least 4 of the previous 5 annual meetings called by the department of revenue under s. 73.06 (1) and by meeting continuing education requirements determined by the department of revenue. The department of revenue may revoke a person's certification if the person fails to attend more than one annual meeting or fails to meet the continuing education requirements in any recertification cycle. The department may reinstate a certification revoked under this paragraph after a revocation period of no less than one year has expired if the person whose certification was revoked requests reinstatement, attends the next annual meeting under s. 73.06 (1) following the date on which the department revoked the certification, and passes an examination under sub. (5).

(c) Recertification is contingent upon submission of an application for renewal, at least 60 days before the expiration date of the current certificate, attesting to the completion of the requirements specified in par. (b). Persons applying for renewal on the basis of attendance at the meetings called by the department under s. 73.06 (1) and by meeting continuing education requirements shall submit a $20 recertification fee with their applications.

(5) EXAMINATIONS. As provided in subs. (1) and (2), the department of revenue shall prepare and administer examinations for each level of certification. A person applying for an examination under this subsection shall submit a $20 examination fee with the person's application. The department of revenue shall grant certification to each person who passes the examination for that level.

(6) TEMPORARY CERTIFICATION. As provided in subs. (1) and (2), the department of revenue shall promulgate rules for the temporary certification of the first level of certification and designate the functions that those persons may perform. The department of revenue may grant an individual a temporary certification that is valid for 90 days.

(6m) SOCIAL SECURITY NUMBERS. Each applicant for certification or recertification under this section shall provide the applicant's social security number on the application. The department of revenue may not disclose a social security number that it obtains under this subsection, except to the department of workforce development for the purpose of requesting certifications under s. 108.227. The department of revenue may not certify or

recertify any person who fails to provide his or her social security number on his or her application.

(7) REVOCATION OF CERTIFICATION. (a) The secretary of revenue or a designee may revoke or suspend the certification of any assessor, assessment personnel, or expert appraiser for the practice of any fraud or deceit in obtaining certification, or any negligence, incompetence, or misconduct, including making a fraudulent change in the assessment roll after it is opened for examination under s. 70.47 (3). The secretary of revenue or the secretary's designee may require any assessor, assessment personnel, or expert appraiser to take corrective action in order to avoid the revocation or suspension of that person's certification for the activities described under this paragraph.

(b) Charges of fraud, deceit, negligence, incompetence or misconduct may be made against any assessor, assessment personnel or expert appraiser by the department of revenue. Such charges shall be in writing, stating the specific acts, and submitted to the secretary of revenue. All charges shall be heard by the secretary within 3 months after their filing.

(c) The time and place for such hearing shall be fixed by the secretary of revenue and a copy of the charges, together with a notice of the time and place of hearing, shall be given by personal service or by registered letter with return receipt requested, mailed to the last–known address of such expert appraiser, at least 30 days before the hearing. The expert appraiser so charged shall have the right to appear personally and by counsel, to cross–examine witnesses appearing against him or her, and to produce evidence and witnesses in his or her own defense.

(d) If, after such hearing, the secretary of revenue determines that there is just cause for revocation, the secretary shall revoke the certificate of registration of the expert appraiser and notify the expert appraiser to that effect. The expert appraiser shall return his or her certificate to the secretary of revenue immediately on receipt of the notice. The action of the secretary of revenue may be reviewed under ch. 227.

(e) The secretary of revenue, for reasons sufficient, may reinstate a certificate of registration that has been revoked under this subsection, after one year upon formal application for reinstatement.

(7m) LIABILITY FOR DELINQUENT TAXES. (a) If the department of revenue determines that an applicant for certification or recertification under this section or a person who holds a certificate issued under this section is liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department of revenue may deny the application or revoke the certificate. Except as provided in par. (c), a denial or revocation under this paragraph is not subject to judicial review.

(b) If the department of revenue denies an application or revokes a certificate under par. (a), the department shall mail 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, 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).

(c) If, after a hearing under s. 73.0301 (5) (a), the department of revenue affirms a determination under par. (a) that an applicant or certificate holder is liable for delinquent taxes, the department shall affirm its denial or revocation. An applicant or certificate holder may seek judicial review under ch. 227 in the circuit court for Dane County of an affirmation by the department of a denial or revocation under this paragraph.

(d) If, after a hearing under s. 73.0301 (5) (a), the department of revenue determines that a person whose certificate is revoked under par. (a) is not liable for delinquent taxes, as defined in s. 73.0301 (1) (c), the department shall reinstate the certificate. The department may not charge a fee for reinstatement of a certificate under this paragraph.

(8) LIABILITY FOR DELINQUENT UNEMPLOYMENT INSURANCE CONTRIBUTIONS. If the department of workforce development certifies under s. 108.227 that an applicant for certification or recertification under this section is liable for delinquent unemployment insurance contributions, the department of revenue shall deny the application for certification or recertification or revoke the certificate. A person subject to a denial or revocation under this subsection for delinquent unemployment insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and hearing under s. 108.227 (5) (a) but is not entitled to any other notice or hearing under this chapter.

History: 1979 c. 221; 1981 c. 20 s. 1039; 1983 a. 27 ss. 1264v, 2200 (15); 1985 a. 120; 1991 a. 39, 316; 1997 a. 237; 2003 a. 33 ss. 1626, 1627, 9160; 2009 a. 234; 2013 a. 36; 2015 a. 55, 216; 2017 a. 324.

Cross–reference: See also ss. Tax 12.05, 12.055, and 12.065, Wis. adm. code.

73.10 Municipal finance. (1) In this section "department" means the department of revenue.

(2) (a) 1. The department shall collect annually from all town, city, village, county, and other public officers all of following:

a. Information regarding the collection of taxes, receipts from licenses, and other sources.

b. Information regarding the expenditure of public funds for all purposes.

c. Any other information that is considered necessary by the department.

2. Information collected under subd. 1. shall be on forms prescribed by the department that include any requirements under par. (b). All public officers requested to provide information under subd. 1. shall properly complete and promptly return to the department all forms transmitted to them by the department.

3. The department shall examine all town, village, city, county, and other public records that the department considers necessary. The department shall publish annually the information collected under this paragraph, with any compilations, analyses, or recommendations that the department determines are necessary. The department shall disseminate information concerning local government accounting, auditing, and fiscal matters.

(b) 1. The department may require by rule all of the following:

a. That the information it needs under par. (a) be submitted as annual financial statements, notes to the financial statements, and supporting schedules.

b. That the statements, notes, and schedules under subd. 1. a. conform to generally accepted accounting principles promulgated by the Governmental Accounting Standards Board or its successor bodies.

c. That the statements, notes, and schedules under subd. 1. a. be audited in accordance with generally accepted auditing standards.

2. Notwithstanding s. 227.01 (13) (j), a rule promulgated under this paragraph is subject to the requirements of ch. 227.

(c) Beginning in 2021, each municipality that is eligible to receive a payment under s. 79.097 shall submit with the information required under pars. (a) and (b) the actual annual revenues received under s. 66.0420 (7).

(3) The department may inspect and examine or cause an inspection and examination of the records of any town, city, village, county or other public officer whenever such officer fails or neglects to return properly the information required by sub. (2) within the time specified under s. 86.303 (5) (c), (d) or (g).

(4) The officers responsible for the furnishing of information collected pursuant to this section shall be jointly and severally liable for any loss the town, city, village, county or other local public body, board, commission or agency suffers through their delinquency; and no payment shall be made them for salary, or on any other accounts, until the total amount of charges for such inspection and examination as provided in sub. (6) has been paid into the treasury of the regular county or other local public body, board, commission or agency.

(5) The department may inquire into the system of accounting of public funds in use by towns, villages, cities, counties and all other local public bodies, boards, commissions, departments or agencies except technical college districts and school districts; devise a system of accounts which is as nearly uniform as practicable; and audit the books of the town, village, city, county or other local public body, board, commission, department or agency, or any municipal electric utility upon its own motion.

(6) The department may establish a scale of charges for audits, inspections, and other services rendered by the department in connection with financial records or procedures of towns, villages, cities, counties, and all other local public bodies, boards, commissions, departments, or agencies. Upon the completion of such work or, at the department's discretion, during work in progress, the department shall transmit to the clerk of the town, village, city, county, or other local public body, board, commission, department, or agency a statement of such charges. Duplicates of the statements shall be filed in the office of the secretary of administration. Within 60 days after the receipt of the above statement of charges, it shall be audited as other claims against towns, villages, cities, counties, and other local public bodies, boards, commissions, departments, or agencies are audited, and it shall be paid into the state treasury and credited to the appropriation under s. 20.566 (2) (gi). Past due accounts of towns, villages, cities, counties, and all other local public bodies, boards, commissions, departments, or agencies shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

History: 1971 c. 108 ss. 1, 4, 6; 1971 c. 125 ss. 36, 394; 1971 c. 154 s. 1; 1971 c. 211 ss. 85, 86; 1973 c. 90; 1973 c. 243 s. 82; 1975 c. 224; 1977 c. 29, 418; 1981 c. 20, 237; 1983 a. 27; 1983 a. 192 s. 303 (7); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 225; 1987 a. 399; 1991 a. 39; 1993 a. 399; 2001 a. 107; 2003 a. 33; 2005 a. 149; 2019 a. 9.

Cross–reference: See also ch. Tax 16, Wis. adm. code.

73.12 Set off of payments to vendors. (1) DEFINITIONS. In this section:

(a) "Tax" means an amount that is owed to this state under ch. 71, 72, 76, 77, 78 or 139 and any addition to tax, interest, penalties or other liability in respect to those amounts and that has been reduced to a tax warrant or in respect to which the time limit for appeal has passed.

(b) "Vendor" means a person providing goods or services to this state under subch. IV or V of ch. 16 or under ch. 84.

(2) REQUEST FOR SETOFF. The department of revenue may request the department of administration to proceed under sub. (3) against any vendor who owes a tax. A request under this subsection consists of identification of the vendor and of the vendor's contracts with this state and notice to the vendor of the request for a setoff.

(3) SETOFF. Upon receipt of a request under sub. (2), the department of administration shall begin to set off against amounts owed by this state to a vendor taxes owed to this state by that vendor until those taxes are paid in full. If the secretary of administration determines, within 30 days after receipt of a request for setoff, that the vendor against whom setoff is requested is either an essential supplier of critical commodities or the only vendor from whom a necessary good or service can be obtained and notifies the secretary of revenue of that determination, the department of administration shall waive the right of setoff and the department of administration shall pay to the vendor the amounts set off. The department of administration shall, within 30 days after the end of each calendar quarter, transfer to the department of revenue the taxes set off during the previous calendar quarter for deposit in the general fund, or in the transportation fund in respect to taxes owed under ch. 78, and shall notify the department of revenue of the amounts set off against each vendor.

(4) APPLICATION OF PROCEEDS. Upon notice under sub. (3), the department of revenue shall reduce on its books the liability of the vendor by the amount set off. The department shall reduce the principal amount of tax liability and related amounts beginning with the liability of longest standing and proceeding chronologically to the most recent liability. In respect to each principal amount of liability and related amounts, the department of revenue shall reduce amounts in the order provided in s. 71.91 (5) (k).

(5) LIABILITY PRECLUDED. Exchange of information required to administer this section does not result in liability under s. 71.78, 72.06, 77.61 (5), 78.80 (3) or 139.38 (6). The department of administration is not liable to any vendor because of setoffs under this section.

(6) PRESERVATION OF OTHER REMEDIES. The availability of the remedy under this section does not abridge the rights of the department of revenue to proceed under ss. 71.80 (12), 71.91 (1) (a) and (c) and (2) to (5m) and 71.92.

(7) TAX IDENTIFICATION INFORMATION. The department of administration may collect from vendors and provide to the department of revenue any tax identification information that the department of revenue requires to administer the program under this section.

History: 1985 a. 29; 1987 a. 312 s. 17; 1989 a. 31; 1997 a. 237; 2005 a. 25.

73.13 Reducing nondelinquent taxes. (1) In this section:

(a) "Department" means the department of revenue.

(b) "Tax" means an amount that is owed to this state under s. 66.0615 (1m) (f) 3. or ch. 71, 72, 76, 77, 78, or 139, and that is not delinquent.

(2) (a) A taxpayer may petition the department to reduce the taxpayer's taxes, including the costs, penalties, and interest related to the taxpayer's taxes. The petition shall set forth a sworn statement of the taxpayer and shall be in a form that the department prescribes. The department may examine the taxpayer under oath about the petition and may require the taxpayer to provide the department with financial statements and any other information requested by the department that is related to the petition.

(b) If the department determines that the taxpayer is unable to pay the taxes, costs, penalties, and interest in full, the department shall determine the amount that the taxpayer is able to pay and shall enter an order reducing the taxes in accordance with the department's determination. The order shall provide either that the order is effective only if the reduced taxes are paid in full within 10 days from the date on which the order is issued or that the order is effective only if the reduced taxes are paid according to a payment schedule that the department determines. The department or its collection agents, upon receipt of the order, shall accept payment in accordance with the order. Upon payment of the reduced taxes, the department shall credit the unpaid portion of the principal amount of the taxes and record the unpaid amount of costs, penalties, and interest accrued to the date of the order.

(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 of revenue 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 of revenue shall send a written notice to the taxpayer 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 of revenue 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), are due and payable immediately upon entry of the order for payment in full and thereafter are 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).

History: 2005 a. 49; 2017 a. 324.

73.15 Hardware and software used to maintain medical records. (1) The department of revenue shall implement a program to certify health care providers as eligible for the electronic medical records credit under ss. 71.07 (5i), 71.28 (5i), and 71.47 (5i).

(2) If the department of revenue certifies a health care provider under sub. (1), the department shall determine the amount of credits to allocate to the health care provider. The total amount of electronic medical records credits allocated to health care providers in any year may not exceed $10,000,000.

(3) The department of revenue shall promulgate rules to administer this section.

History: 2007 a. 20; 2011 a. 32 ss. 3355g to 3355m; Stats. 2011 s. 73.15.

73.16 General provision. (1) DEFINITIONS. In this section:

(ab) "Combined group" has the meaning given in s. 71.255 (1) (a).

(b) "Department" means the department of revenue.

(c) "Person who is a party to the determination" means a person who requests a determination for that person's benefit, files a claim for a refund, or is assessed by the department, but not including any of the following:

1. A person who, on behalf of another person, requests a determination or a claim for a refund or appeals a determination.

2. A shareholder of a tax–option corporation, a member of a limited liability company, or a partner of a partnership, unless such an individual is named or identified in the determination, claim for a refund, or assessment.

3. An anonymous person who requests a determination.

(d) "Published" means prepared and issued for public distribution and does not include guidance on a private matter or issue.

(e) "Written guidance" means a written statement made by an employee of the department acting in an official capacity regarding a Wisconsin tax question to the person or the person's representative.

(2) RELYING ON PUBLISHED GUIDANCE. (a) Except as provided in par. (b), in the course of any determination, or in the course of any proceeding appealing any determination, the department shall not take a position that is contrary to any rule promulgated by the department that was in effect during the period related to the determination or that is contrary to any guidance published by the department prior to that period and not subsequently retracted, altered, or amended by the department or the legislature or by a final and conclusive decision of the tax appeals commission or courts.

(am) Except as provided in par. (c), in the course of any determination, or in the course of any proceeding appealing a determination, the department shall not take a position that is contrary to any written guidance that was provided to a person who is a party to the determination or the appeal of the determination regarding the same facts as in the determination and not subsequently retracted, altered, or amended by the department or the legislature or by a final and conclusive decision of the tax appeals commission or courts.

(b) The department may retroactively apply any rule change that is related to implementing a legislative act or a final and conclusive decision of the tax appeals commission or the courts to take effect no earlier than the act's effective date or the date on which the decision became final and conclusive, unless otherwise prescribed by the legislature, tax appeals commission, or court, and only if the department submits the rule's scope statement to the governor for approval under s. 227.135 (2) no later than 18 months after the latter of the legislative act's publication date, effective date, or initial applicability date, or the date on which the decision becomes final and conclusive. A retroactive application of a rule change not described under this paragraph shall be subject to approval under s. 227.185.

(c) With regard to any position taken by the department in any matter described under par. (am), if the department retracts, alters, or amends previously published or previously issued written guidance for any purpose other than to implement a legislative act or final and conclusive decision of the tax appeals commission or courts, the department shall apply the retraction, alteration, or amendment prospectively only, unless the change is to a taxpayer's benefit, in which case, the department shall apply the retraction, alteration, or amendment retroactively. A retroactive change in any previously published or previously issued written guidance related to implementing a legislative act or final and conclusive decision of the tax appeals commission or courts may take effect no earlier than the act's effective date or the date on which the decision became final and conclusive unless otherwise prescribed by the legislature or ordered by the courts.

(3) RELYING ON PAST AUDITS. (a) A person who is subject to an audit determination by the department, including all other members of that person's combined group for purposes of determining the tax due under s. 71.23 for taxable years beginning after December 31, 2008, shall not be liable for any amount that the department asserts that the person owes if all of the following conditions are satisfied:

1. The liability asserted by the department is the result of a tax issue during the period associated with a prior audit determination for which the person is subject to and the tax issue is the same as the tax issue during the period associated with the current audit determination.

2. A department employee who was involved in the prior audit determination identified or reviewed the tax issue before completing the prior audit determination, as shown by any schedules, exhibits, audit reports, documents, or other written evidence pertaining to the audit determination, and the schedules, exhibits, reports, documents and other written evidence show that the department did not adjust the person's treatment of the tax issue.

3. The liability asserted by the department as described under subd. 1. was not asserted in the prior audit determination.

(b) Paragraph (a) does not apply to any period associated with an audit determination, if the period begins after the promulgation of a rule, dissemination of written guidance to the public or to the person who is subject to the audit determination, the effective date of a statute, or the date on which a tax appeals commission or court decision becomes final and conclusive and if the rule, guidance, statute, or decision imposes the liability as a result of the tax issue described in par. (a) 1.

(c) Paragraph (a) does not apply to any period associated with an audit determination if any of the following applies:

1. The department establishes by clear and satisfactory evidence that the taxpayer provided incomplete or false information relevant to the tax issue in the prior audit determination.

2. The tax issue was settled in the prior audit determination by a written agreement between the department and the taxpayer that was entered into before April 5, 2018.

3. The tax issue was settled in the prior audit determination by a written agreement between the department and the taxpayer that was entered into on or after April 5, 2018, and in which the parties acknowledged that the department did not adopt the taxpayer's position on the tax issue.

(4) NEGLIGENCE DETERMINATIONS. The department shall not impose a penalty on a taxpayer under ss. 71.09 (11) (d), 71.83 (1) (a) 1. to 4. and (3) (a), 76.05 (2), 76.14, 76.28 (6) (b), 76.39 (3), 76.645 (2), 77.60 (2) (intro.), (3), and (4), 78.68 (3) and (4), and 139.25 (3) and (4), unless the department shows that the taxpayer's action or inaction was due to the taxpayer's willful neglect and not to reasonable cause.

(5) APPLICABILITY. Except as provided in sub. (4), notwithstanding any other provision of law, this section applies to all taxes and fees administered by the department.

History: 2011 a. 68; 2013 a. 20; 2017 a. 231.