

1969 Assembly Bill 217

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**CHAPTER 190, LAWS OF 1969**

AN ACT to amend 71.10 (10) (bn) and (d) and 71.12 (1); and to create 71.10 (10) (e) of the statutes, relating to refund claims on income tax office audit assessments.

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

SECTION 1. 71.10 (10) (bn) and (d) of the statutes are amended to read:

71.10 (10) (bn) With respect to income taxes, franchise taxes and surtaxes assessed or based on incomes received in the calendar year 1962 or corresponding fiscal year, and subsequent years, *except as otherwise pro-*

*vided in par. (e)*, refunds may be made if the claim therefor is filed within 4 years of the date the tax return was filed, ~~provided that~~ but for purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day and ~~that~~ no refund may be made of any income taxes withheld and paid or declared and paid with respect to which a tax return was not filed when due unless claim therefor is filed within 4 years of the date such return was due.

(d) No refund shall be made and no credit shall be allowed ~~on any item of income or deduction, assessed as a result of an office audit, the assessment of which shall have become final and conclusive under the provisions of section 71.12 (1), 71.12 (3), 73.01 or 73.015; and no refund shall be made and no credit shall be allowed for any year, the income of which was assessed as a result of a field audit, and which assessment has become final and conclusive under the provisions of sections s. 71.12 (1), 71.12 (3), 73.01 or 73.015 and, except as provided in par. (e), no refund shall be made and no credit shall be allowed on any item of income or deduction, assessed as a result of an office audit, the assessment of which shall have become final under s. 71.12 (1) and (3), 73.01 or 73.015.~~

SECTION 2. 71.10 (10) (e) of the statutes is created to read:

71.10 (10) (e) A claim for refund may be made within 2 years of the assessment of a tax, assessed by office audit on or after January 1, 1970, provided such tax was not protested by the filing of an application for abatement and the taxable year had not been closed by field audit under par. (d) prior to the filing of such claim. No claim may be allowed under this paragraph for any tax paid with respect to any item of income or deduction self-assessed by the taxpayer or assessed as the result of any assessment made by the department with respect to which all the conditions hereof are not met.

SECTION 3. 71.12 (1) of the statutes is amended to read:

71.12 (1) Any person feeling aggrieved by a notice of additional assessment shall, within 30 days, after receipt thereof, make application to the department of taxation in the case of corporations or the assessor of income in the case of persons other than corporations, ~~revenue~~ for abatement of the tax. The ~~tax commissioner or the assessor of incomes department~~ shall grant or deny such application within 6 months after it is filed. Upon denial of said application for abatement, the ~~taxpayer person~~, if aggrieved thereby, may appeal to the ~~board of tax appeals commission~~ by filing a petition with the clerk thereof as provided by law and the rules of practice promulgated by the ~~board commission~~. ~~If no application for abatement is made or if a petition is not filed with the board commission within the time provided in s. 73.01, or, except as provided in s. 71.10 (10) (e), if no application for abatement is made within the time provided the assessment shall be final and conclusive.~~

Approved October 30, 1969.