



1999 ASSEMBLY BILL 634

December 30, 1999 - Introduced by Representatives M. LEHMAN and WOOD, cosponsored by Senators WIRCH and DRZEWIECKI, by request of Department of Revenue. Referred to Committee on Ways and Means.

1 **AN ACT to repeal** 71.80 (19) (a) (title), 71.80 (19) (b), 71.80 (19) (c) and 77.54 (3)
2 (b) 3.; **to renumber and amend** 71.80 (19) (a) and 77.59 (4) (c); **to amend** 50.14
3 (4), 71.10 (6) (a), 71.10 (6) (b), 71.10 (6m) (a), 71.65 (5) (a) 1., 73.01 (4) (a), 77.54
4 (5) (b), 77.54 (5) (c), 77.54 (6) (a), 77.54 (26m), 77.59 (5), 77.61 (3), 77.9941 (4),
5 77.9964 (2) and 78.68 (10); and **to create** 20.566 (1) (hd), 71.10 (6) (e), 71.10 (6m)
6 (c), 71.80 (21), 72.30 (1m), 73.13, 77.51 (20m), 77.51 (22m), 77.58 (3) (c), 78.39
7 (5d), 78.39 (5m), 139.11 (2r), 139.38 (2r), 139.75 (9m) and 139.82 (2r) of the
8 statutes; **relating to:** the liability of married persons filing a joint income tax
9 return, the payment of the alternate fuel tax and the tobacco products tax,
10 reducing nondelinquent taxes, rounding dollar amounts to whole dollars on all
11 tax returns, allowing a mathematical computation of sales and use taxes, items
12 used exclusively for tax-exempt purposes, paying taxes with a credit card,

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- 1 extending the time for filing a tax withholding report, granting rule-making
2 authority, making an appropriation and providing a penalty.
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Analysis by the Legislative Reference Bureau**REDUCING TAXES**

Under current law, any taxpayer may petition the department of revenue (DOR) to reduce delinquent taxes, including any applicable costs, penalties and interest. If DOR determines that the taxpayer is unable to pay in full the amount due, based on an examination of the taxpayer under oath, the taxpayer's financial statements and any other information required by DOR, DOR determines the amount that the taxpayer is able to pay and then enters an order reducing the taxes, costs, penalties and interest owed by the taxpayer.

If within three years from the date on which DOR enters the order that reduces the taxpayer's taxes DOR determines that the taxpayer has an income or owns property that is sufficient to enable the taxpayer to pay the remainder of the original delinquent taxes, including costs, penalties and interest, DOR must reopen the order and order the payment in full of such taxes, costs, penalties and interest.

This bill expands current law so that DOR is authorized to reduce any taxes, costs, penalties and interest that are due from a taxpayer, regardless of whether the taxes, costs, penalties and interest are delinquent.

INCOME AND FRANCHISE TAXES

Under current law, spouses that file a joint income tax return are both liable for the payment of any tax related to that return. However, DOR may relieve a person of any tax liability related to a joint return, in a manner specified by the Internal Revenue Code and adopted by this state. Generally, DOR may relieve a person of any tax liability related to a joint return if the person's spouse did not notify the person of any tax liability or understatement of taxes related to the joint return. This bill corrects an outdated reference to the sections of the Internal Revenue Code that relate to a spouse's tax liability for a joint income tax return. The bill also requires a spouse to apply for relief from tax liability within two years from the date on which DOR begins collection activities on the spouse's tax liability or within two years from the effective date of the provision, whichever is later.

Under current law, an employer is required to deduct and withhold state income taxes from an employee's pay and to deposit those taxes with DOR on a quarterly basis. An employer must also file a tax withholding report with DOR on a monthly, quarterly or annual basis. Under current law, DOR cannot grant an employer an extension for filing such a report. Before 1999, DOR could grant a 30-day extension for filing a withholding report to an employer who showed good cause for granting that extension. This bill restores the prior law which allowed DOR to grant such an extension.

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Under current law, a retailer is required to use a bracket system, as determined by DOR, to compute the sales or use taxes that the retailer must collect from the sale of goods and services. Under this bill, a retailer may also use a straight mathematical computation, under rules promulgated by DOR, to compute the sales or use taxes that the retailer must collect from the sale of goods and services.

Under current law, the sales of certain goods are exempt from the sales and use taxes if those goods are used exclusively for a particular purpose. This bill clarifies the scope of such exemptions by providing that the sales of certain goods are exempt from the sales and use taxes if those goods are used in a nontaxable manner to the exclusion of all other uses, except for other uses that do not exceed 5% of total use in a year.

Under current law, if a seller makes a claim for a refund of sales taxes or use taxes and the claim is honored, the seller is required to pass along the refund and related interest to the buyers and to submit to DOR the portion of the refund that could not be passed on, along with a penalty. Under current law, if a seller receives a sales or use tax refund as the result of an audit, the seller is not required to submit the refund and related interest to the buyers. Also, a seller is not required to submit to the buyers sales or use taxes that are collected erroneously.

This bill requires a seller who receives any refund of sales or use taxes, or who collects sales or use taxes erroneously, to submit such a refund or taxes to the buyer, or to DOR if the buyer cannot be located, within 60 days after receiving a refund or after discovering that the seller has collected taxes erroneously. Any portion of a refund or taxes not submitted to the buyer, or to DOR if the buyer cannot be located, within that 60 days must be submitted to DOR, along with a penalty.

OTHER TAXATION

Under current law, a taxpayer may round dollar amounts on an income or franchise tax return to the nearest whole dollar. This bill permits DOR to require a taxpayer round dollar amounts to the nearest whole dollar on an income or franchise tax return. This bill also permits DOR to require that a taxpayer round dollar amounts to the nearest whole dollar on tax returns or tax reports related to sales and use taxes, estate taxes, fuel taxes, cigarette and tobacco product taxes, alcohol taxes, food and beverage taxes, premier resort area taxes, rental car fees and dry cleaning fees.

This bill allows DOR to accept payment for taxes, costs, penalties and interest from a taxpayer by use of a credit card and allows DOR to impose a credit card service charge on such payments.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

ASSEMBLY BILL 634**SECTION 1**

1 **SECTION 1.** 20.566 (1) (hd) of the statutes is created to read:

2 20.566 (1) (hd) *Credit card payment service charge.* From moneys received from
3 credit card payment service charges collected under s. 71.80 (21) (c), a sum sufficient
4 to pay the costs incurred by the department of revenue to provide for the payment
5 of taxes by credit card, including the cost of contracting services under s. 71.80 (21)
6 (d).

7 **SECTION 2.** 50.14 (4) of the statutes is amended to read:

8 50.14 (4) Sections 77.59 (1) to ~~(5)~~ (5m), (6) (intro.), (a) and (c) and (7) to (10),
9 77.60 (1) to (7), (9) and (10), 77.61 (9) and (12) to (14) and 77.62, as they apply to the
10 taxes under subch. III of ch. 77, apply to the assessment under this section.

11 **SECTION 3.** 71.10 (6) (a) of the statutes is amended to read:

12 71.10 (6) (a) *Joint returns.* Persons filing a joint return are jointly and severally
13 liable for the tax, interest, penalties, fees, additions to tax and additional
14 assessments under this chapter applicable to the return. ~~A~~ Except as provided in
15 par. (e), a person shall be relieved of liability in regard to a joint return in the manner
16 specified in section ~~6013~~ (e) ~~6015~~ (a) to (d) and (f) of the internal revenue code,
17 notwithstanding the amount or percentage of the understatement Internal Revenue
18 Code.

19 **SECTION 4.** 71.10 (6) (b) of the statutes is amended to read:

20 71.10 (6) (b) *Separate returns.* ~~A~~ Except as provided in par. (e), a spouse filing
21 a separate return may be relieved of liability for the tax, interest, penalties, fees,
22 additions to tax and additional assessments under this chapter with regard to
23 unreported marital property income in the manner specified in section 66 (c) of the
24 internal revenue code Internal Revenue Code. The department may not apply ch.
25 766 in assessing a taxpayer with respect to marital property income the taxpayer did

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1 not report if that taxpayer failed to notify the taxpayer's spouse about the amount
2 and nature of the income before the due date, including extensions, for filing the
3 return for the taxable year in which the income was derived. The department shall
4 include all of that marital property income in the gross income of the taxpayer and
5 exclude all of that marital property income from the gross income of the taxpayer's
6 spouse.

7 **SECTION 5.** 71.10 (6) (e) of the statutes is created to read:

8 71.10 (6) (e) *Application for relief.* A person who seeks relief from liability
9 under par. (a) or (b) shall apply for relief with the department, on a form prescribed
10 by the department, within 2 years after the date on which the department first
11 begins collection activities after the effective date of this paragraph [revisor
12 inserts date].

13 **SECTION 6.** 71.10 (6m) (a) of the statutes is amended to read:

14 71.10 (6m) (a) ~~A~~ Except as provided in par. (c), a formerly married or remarried
15 person filing a return for a period during which the person was married may be
16 relieved of liability for the tax, interest, penalties, fees, additions to tax and
17 additional assessments under this chapter ~~for unreported marital property income~~
18 from that period as if the person were a spouse under section 66 (c) of the ~~internal~~
19 ~~revenue code~~ Internal Revenue Code. The department may not apply ch. 766 in
20 assessing the former spouse of the person with respect to marital property income
21 that the former spouse did not report if that former spouse failed to notify the person
22 about the amount and nature of the income before the due date, including extensions,
23 for filing the return for the taxable year during which the income was derived. The
24 department shall include all of that marital property income in the gross income of

ASSEMBLY BILL 634**SECTION 6**

1 the former spouse and exclude all of that marital property income from the gross
2 income of the person.

3 **SECTION 7.** 71.10 (6m) (c) of the statutes is created to read:

4 71.10 **(6m)** (c) A person who seeks relief from liability under par. (a) shall apply
5 for relief with the department as provided under sub. (6) (e).

6 **SECTION 8.** 71.65 (5) (a) 1. of the statutes is amended to read:

7 71.65 **(5)** (a) 1. Thirty days for filing a wage statement under sub. (1) or an
8 annual withholding report under sub. (3) (a) or (d).

9 **SECTION 9.** 71.80 (19) (a) (title) of the statutes is repealed.

10 **SECTION 10.** 71.80 (19) (a) of the statutes is renumbered 71.80 (19) and
11 amended to read:

12 71.80 **(19)** WHOLE DOLLAR AMOUNTS. ~~With~~ At the request of the department,
13 with respect to any amount required to be shown on a form prescribed for any return,
14 statement or other document required by this chapter, if the amount of such item is
15 other than a whole dollar amount the fractional part of a dollar shall be disregarded
16 unless it amounts to 50 cents or more, in which case the amount (determined without
17 regard to the fractional part of a dollar) shall be increased to the next whole dollar.

18 **SECTION 11.** 71.80 (19) (b) of the statutes is repealed.

19 **SECTION 12.** 71.80 (19) (c) of the statutes is repealed.

20 **SECTION 13.** 71.80 (21) of the statutes is created to read:

21 71.80 **(21)** CREDIT CARD PAYMENTS. (a) In this subsection, "taxes" has the
22 meaning given in s. 71.91 (6) (a) 4.

23 (b) The department may accept payment by credit card of taxes that are
24 required to be paid to the department under this chapter.

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1 (c) If the department permits the payment of taxes by credit card under par.
2 (b), the department shall impose a credit card service charge on that payment. The
3 credit card service charge shall be in addition to the taxes that are being paid by
4 credit card and shall be an amount that is no greater than necessary to pay the costs
5 to the department for providing payment by credit card, including the cost of any
6 services for which the department contracts under par. (d).

7 (d) The department may contract for services relating to credit card payments
8 under this section.

9 **SECTION 14.** 72.30 (1m) of the statutes is created to read:

10 72.30 (1m) WHOLE DOLLAR AMOUNTS. Section 71.80 (19), as it applies to a tax
11 return filed under ch. 71, applies to a tax return filed under sub. (1).

12 **SECTION 15.** 73.01 (4) (a) of the statutes is amended to read:

13 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
14 the commission shall be the final authority for the hearing and determination of all
15 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
16 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.
17 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (5m) and (6) (b), 78.01, 78.22, 78.40,
18 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch.
19 XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal
20 there is filed with the commission a stipulation signed by the department of revenue
21 and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification
22 or reversal of the department's position with respect to some or all of the issues raised
23 in the appeal, the commission shall enter an order affirming or modifying in whole
24 or in part, or canceling the assessment appealed from, or allowing in whole or in part
25 or denying the petitioner's refund claim, as the case may be, pursuant to and in

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1 accordance with the stipulation filed. No responsibility shall devolve upon the
2 commission, respecting the signing of an order of dismissal as to any pending appeal
3 settled by the department without the approval of the commission.

4 **SECTION 16.** 73.13 of the statutes is created to read:

5 **73.13 Reducing nondelinquent taxes. (1)** In this section:

6 (a) “Department” means the department of revenue.

7 (b) “Tax” means an amount that is owed to this state under s. 66.75 (1m) (f) 3.
8 or ch. 71, 72, 76, 77, 78 or 139, and that is not delinquent.

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

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

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1 (c) If within 3 years of the date of the order under par. (b) the department
2 ascertains that the taxpayer has an income or owns property sufficient to enable the
3 taxpayer to pay the unpaid portion of the principal amount of the taxes due,
4 including the costs, penalties and interest recorded under par. (b), the department
5 shall reopen the order under par. (b) and order the taxpayer to pay in full the unpaid
6 portion of the principal amount of the taxes due, including the costs, penalties and
7 interest recorded under par. (b). Before the entry of the order for payment, the
8 department shall send a written notice to the taxpayer, by certified mail, advising
9 the taxpayer of the department's intention to reopen the order under par. (b) and
10 fixing a time and place for the appearance of the taxpayer, if the taxpayer desires a
11 hearing. If the department determines that the taxpayer is able to pay the unpaid
12 portion of the principal amount of the taxes due, including the costs, penalties and
13 interest recorded under par. (b), the department shall enter the order for payment
14 in full. The unpaid portion of the principal amount of the taxes due, including the
15 costs, penalties and interest recorded under par. (b), shall be due and payable
16 immediately upon entry of the order for payment in full and shall thereafter be
17 subject to the interest under s. 71.82 (2), as that subsection applies to delinquent
18 income and franchise taxes under s. 71.82, and to the delinquent account fee under
19 s. 73.03 (33m).

20 **SECTION 17.** 77.51 (20m) of the statutes is created to read:

21 77.51 (20m) "Taxable year" has the meaning given in s. 71.01 (12).

22 **SECTION 18.** 77.51 (22m) of the statutes is created to read:

23 77.51 (22m) "Used exclusively" means used in a nontaxable manner for at least
24 95% of total use, the percentage to be determined as follows, unless a person receives
25 written approval from the department of revenue to use an alternative method:

ASSEMBLY BILL 634**SECTION 18**

1 (a) For highway vehicles, including trailers and semitrailers, divide the
2 number of miles that the item is driven or hauled in a nontaxable manner in the
3 taxable year by the total number of miles that the item is driven or hauled in the same
4 taxable year.

5 (b) For an item other than that described in par. (a), divide the number of hours
6 that the item is used in a nontaxable manner in the taxable year by the total number
7 of hours that the item is used in the same taxable year.

8 **SECTION 19.** 77.54 (3) (b) 3. of the statutes is repealed.

9 **SECTION 20.** 77.54 (5) (b) of the statutes is amended to read:

10 77.54 (5) (b) Motor trucks, truck tractors, road tractors, buses, trailers and
11 semitrailers, and accessories, attachments, parts, supplies and materials therefor,
12 that are sold to common or contract carriers ~~who use such motor trucks, truck~~
13 ~~tractors, road tractors, buses, trailers and semitrailers~~ and that are used exclusively
14 as common or contract carriers, including the urban mass transportation of
15 passengers as defined in s. 71.38.

16 **SECTION 21.** 77.54 (5) (c) of the statutes is amended to read:

17 77.54 (5) (c) Motor vehicles which are not required to be licensed for highway
18 use and which are used exclusively and directly used in conjunction with waste
19 reduction or recycling activities which reduce the amount of solid waste generated,
20 reuse solid waste, recycle solid waste, compost solid waste or recover energy from
21 solid waste. For the purposes of this paragraph, “solid waste” means garbage, refuse,
22 sludge or other materials or articles, whether these materials or articles are
23 discarded or purchased, including solid, semisolid, liquid or contained gaseous
24 materials or articles resulting from industrial, commercial, mining or agricultural
25 operations or from domestic use or from public service activities.

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1 **SECTION 22.** 77.54 (6) (a) of the statutes is amended to read:

2 77.54 **(6)** (a) Machines and specific processing equipment and repair parts or
3 replacements thereof, used exclusively and directly used by a manufacturer in
4 manufacturing tangible personal property and safety attachments for those
5 machines and equipment.

6 **SECTION 23.** 77.54 (26m) of the statutes is amended to read:

7 77.54 **(26m)** The gross receipts from the sale of and the storage, use or other
8 consumption of waste reduction or recycling machinery and equipment, including
9 parts therefor, used exclusively and directly used for waste reduction or recycling
10 activities which reduce the amount of solid waste generated, reuse solid waste,
11 recycle solid waste, compost solid waste or recover energy from solid waste. The
12 exemption applies even though an economically useful end product results from the
13 use of the machinery and equipment. For the purposes of this subsection, "solid
14 waste" means garbage, refuse, sludge or other materials or articles, whether these
15 materials or articles are discarded or purchased, including solid, semisolid, liquid or
16 contained gaseous materials or articles resulting from industrial, commercial,
17 mining or agricultural operations or from domestic use or from public service
18 activities.

19 **SECTION 24.** 77.58 (3) (c) of the statutes is created to read:

20 77.58 **(3)** (c) Section 71.80 (19), as it applies to a tax return filed under ch. 71,
21 applies to a tax return filed under this section.

22 **SECTION 25.** 77.59 (4) (c) of the statutes is renumbered 77.59 (5m) and amended
23 to read:

24 77.59 **(5m)** A seller who receives a refund ~~under par. (a) or (b)~~ of taxes that the
25 seller has collected from buyers, who collects taxes erroneously from buyers, or who

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1 is entitled to a refund that is offset under sub. (5), shall return submit the taxes and
2 related interest to the buyers from whom the taxes were collected. ~~The, or to the~~
3 department if the seller cannot locate the buyers, within 60 days after the date of the
4 refund, after the date of the offset or after discovering that the seller has collected
5 taxes erroneously from the buyers. If the seller does not submit the taxes and related
6 interest to the department or the buyers within that period, the seller shall return
7 submit to the department any part of a refund or taxes that the seller does not ~~return~~
8 submit to a buyer or to the department along with a penalty of 25% of the amount
9 not returned ~~or submitted or, in the case of fraud,~~ a penalty equal to the amount not
10 returned ~~in the case of fraud~~ submitted.

11 **SECTION 26.** 77.59 (5) of the statutes is amended to read:

12 77.59 (5) The department may offset the amount of any refund for a period,
13 together with interest on the refund, against deficiencies for another period, and
14 against penalties and interest on the deficiencies, or against any amount of whatever
15 kind, due and owing on the books of the department from the person claiming who
16 is entitled to the refund. If the refund is to be paid to a buyer, the department may
17 also set off amounts in the manner in which it sets off income tax and franchise tax
18 refunds under s. 71.93 and may set off amounts for child support or maintenance or
19 both in the manner in which it sets off income taxes under ss. 49.855 and 71.93 (3),
20 (6) and (7).

21 **SECTION 27.** 77.61 (3) of the statutes is amended to read:

22 77.61 (3) ~~The department shall provide~~ A retailer shall use either a bracket
23 system to be used by retailers in collecting or a straight mathematical computation,
24 under rules promulgated by the department, to determine the amount of the tax that
25 the retailer may collect from their the retailer's customers, but the use of such

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1 ~~brackets either a bracket system or a straight mathematical computation~~ shall not
2 relieve the retailer from liability for payment of the full amount of the tax levied by
3 ss. 77.51 to 77.62.

4 **SECTION 28.** 77.9941 (4) of the statutes is amended to read:

5 77.9941 (4) Sections 77.72 (1), (2) (a) and (3) (a), 77.73, 77.74, 77.75, 77.76 (1),
6 (2) and (4), 77.77 (1) and (2), 77.785 (1) and 77.79, as they apply to the taxes under
7 subch. V, apply to the tax under this subchapter. Section 77.58 (3) (c), as it applies
8 to the taxes under subch. III, applies to the tax under this subchapter.

9 **SECTION 29.** 77.9964 (2) of the statutes is amended to read:

10 77.9964 (2) Except as provided in s. 77.9961 (4), ~~sections ss. 71.74 (1) to (3), (7)~~
11 ~~and (9), 71.75 (1), (2), (6), (7), (9) and (10), 71.77 (1) and (4) to (8), 71.78 (1) to (4) and~~
12 ~~(5) to (8), 71.80 (1) (a) and (b), (4) to (6), (8) to (12), (14), and (17) and (18) to (19), 71.82~~
13 ~~(1) and (2) (a) and (b), 71.83 (1) (a) 1. and 2. and (b) 1., 2. and 6., (2) (a) 1. to 3. and~~
14 ~~(b) 1. to 3. and (3), 71.87, 71.88, 71.89, 71.90, 71.91 (1) (a), (2) and (4) to (6) and 71.93,~~
15 as they apply to the taxes under ch. 71, apply to the fees under this subchapter.

16 **SECTION 30.** 78.39 (5d) of the statutes is created to read:

17 78.39 (5d) “Pay” has the meaning given in s. 78.005 (13b).

18 **SECTION 31.** 78.39 (5m) of the statutes is created to read:

19 78.39 (5m) “Sign” has the meaning given in s. 78.005 (13r).

20 **SECTION 32.** 78.68 (10) of the statutes is amended to read:

21 78.68 (10) Except as provided in ss. 78.19, 78.20 (2) and 78.75 (1m) (b), s. 71.75
22 (2), (4) to (7) and (10), as it applies to the taxes under ch. 71, applies to the taxes under
23 this chapter. Section 71.74 (13), as it applies to refunds of the taxes under ch. 71,
24 applies to the refund of the taxes under this chapter and s. 71.80 (19), as it applies
25 to tax returns filed under ch. 71, applies to returns filed under this chapter.

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1 **SECTION 33.** 139.11 (2r) of the statutes is created to read:

2 139.11 (2r) WHOLE DOLLAR AMOUNTS. Section 71.80 (19), as it applies to a tax
3 return filed under ch. 71, applies to a report filed under this subchapter.

4 **SECTION 34.** 139.38 (2r) of the statutes is created to read:

5 139.38 (2r) Section 71.80 (19), as it applies to a tax return filed under ch. 71,
6 applies to a report filed under this subchapter.

7 **SECTION 35.** 139.75 (9m) of the statutes is created to read:

8 139.75 (9m) "Sign" has the meaning given in s. 139.01 (9m).

9 **SECTION 36.** 139.82 (2r) of the statutes is created to read:

10 139.82 (2r) Section 71.80 (19), as it applies to a tax return filed under ch. 71,
11 applies to a report filed under this subchapter.

12 **SECTION 37. Nonstatutory provisions.**

13 (1) REFUNDS AND TAXES COLLECTED ERRONEOUSLY. Notwithstanding section 77.59
14 (5m) of the statutes, as affected by this act, a seller who is required to submit to a
15 buyer a refund or a tax collected erroneously under section 77.59 (5m) of the statutes,
16 as affected by this act, from sales that occurred after August 31, 1994, but before the
17 effective date of this subsection shall submit that refund or tax to the buyer, or to the
18 department of revenue if the seller cannot locate the buyer, within 60 days after the
19 effective date of this subsection. A refund or tax that is not submitted to the buyer
20 or to the department of revenue within that period is subject to the penalties imposed
21 under section 77.59 (5m) of the statutes, as affected by this act.

22 **SECTION 38. Initial applicability.**

23 (1) REFUNDS AND TAXES COLLECTED ERRONEOUSLY. The treatment of sections 50.14
24 (4), 73.01 (4) (a) and 77.59 (4) (c) and (5) of the statutes first applies retroactively to

