



2021 SENATE BILL 396

June 10, 2021 - Introduced by Senators PETROWSKI, BALLWEG, COWLES, RINGHAND and L. TAYLOR, cosponsored by Representatives BROOKS, GUNDRUM, SCHRAA, ARMSTRONG, SUBECK, BRANDTJEN, EDMING, NOVAK, SPIROS, ALLEN, KUGLITSCH, TITTL, KNODL, JAMES, VANDERMEER and TUSLER. Referred to Committee on Financial Institutions and Revenue.

- 1 **AN ACT** *to amend* 74.35 (4) and 74.41 (4) of the statutes; **relating to:** interest
2 on claims of excessive assessment and for recovery of unlawful property taxes.

Analysis by the Legislative Reference Bureau

Under current law, a person may file a claim with the taxation district where the property is located to recover unlawful property taxes. A person who files a claim must allege at least one of the following as the basis for the claim:

1. The taxation district made a clerical error regarding the description of the property or the computation of the tax.
2. The assessment included real property improvements that did not exist on the date of the assessment.
3. The property is exempt from taxation.
4. The property is not located in the taxation district.
5. The taxation district made a double assessment of the property.

If the taxation district allows the claim, it pays the claimant the amount of property taxes collected and may include interest at the rate of 0.8 percent a month, computed from the date on which the person filed the claim.

Under current law, a person may also file a claim with the taxation district where the property is located alleging that the assessment of the person's property is excessive. If the taxation district allows the claim, it pays the claimant the amount of the excess and may include interest at the average annual discount rate determined by the last auction of six-month U.S. treasury bills before the filing of the claim per day for the period between the time when the tax was due and the date that the claim was paid. This rate is generally lower than the rate of interest paid on claims to recover unlawful property taxes.

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This bill changes the interest rate for payments made on a claim to recover unlawful taxes so that it is the same as the payments made on a claim of excessive assessment.

Under current law, when a taxation district rescinds or refunds property taxes paid by a taxpayer in the district, the district may submit a form to the Department of Revenue to collect from each underlying taxing jurisdiction its proportionate share of the rescinded or refunded amount. However, that amount does not include interest paid by the taxation district on claims for excessive assessment or to recover unlawful property taxes. This bill allows the taxation district to collect from each underlying taxing jurisdiction its proportionate share of the interest paid on claims for excessive assessment or to recover unlawful property taxes.

For further information see the 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:

1 **SECTION 1.** 74.35 (4) of the statutes is amended to read:

2 74.35 (4) INTEREST. The amount of a claim filed under sub. (2) or an action
3 commenced under sub. (3) may include interest ~~computed from the date of filing the~~
4 ~~claim against the taxation district, at the rate of 0.8 percent per month~~ at the average
5 annual discount rate determined by the last auction of 6-month U.S. treasury bills
6 before the date of filing the claim per day for the period between the time when the
7 tax was due and the date that the claim was paid.

8 **SECTION 2.** 74.41 (4) of the statutes is amended to read:

9 74.41 (4) CHARGE-BACK AMOUNT DETERMINED. The department of revenue shall,
10 by the November 15 following submission of the form under sub. (1), determine the
11 amount of rescinded or refunded taxes to be charged back to, and collected from, each
12 taxing jurisdiction for which taxes were collected by the taxation district and
13 determine the amount of taxes collected under s. 74.33 to be shared with each taxing
14 jurisdiction for which taxes were collected by the taxation district. Except for
15 interest on refunds under s. 70.511 (2) (b) that is paid with respect to property that

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1 was assessed under s. 70.995 and that is not paid by the department of
2 administration under s. 70.511 (2) (bm), and except for interest on refunds under ss.
3 74.35 and 74.37, the amount determined may not include any interest. The
4 determination of the department of revenue under this subsection is reviewable only
5 under s. 227.53.

6 **SECTION 3. Initial applicability.**

7 (1) This act first applies to claims paid on the effective date of this subsection.

8 (END)