Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

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Increased Resources for Delinquent Tax Collection Activities (DOR -- Tax Administration)

[LFB 2013-15 Budget Summary: Page 404, #4]

CURRENT LAW

Most delinquent tax bills are assigned to the Department of Revenue's Central Collection Section in the Audit Bureau for administration. The following are assigned to the Section: (a) income tax processing bills, audits, and estimated assessments; (b) out-of-state business tax bills; (c) occasional vehicle sales tax bills; (d) business tax registration fee bills; and (e) additional bills on accounts currently assigned to the Section. If the Central collection revenue agent responsible for a delinquent account is unable to resolve an account within six months, accounts with larger balances are transferred to the Intensive Collection Effort (ICE) unit, while accounts with smaller balances are referred to a private collection agency. Accounts not resolved in the ICE unit are either referred to the Field Compliance Section or a private collection agency. The ICE unit is comprised of 14 revenue agents and one revenue agent supervisor who have been reassigned from other compliance duties. ICE is provided $141,500 PR in base level supplies and services funding through the collections by the department, program revenue appropriation.

GOVERNOR

Provide increased expenditure authority of $739,300 PR and 15.00 PR positions in 2013-14, and $950,700 PR and 15.00 PR positions in 2014-15, for delinquent tax collection activities. The increased expenditure authority would be provided in the collections by department appropriation which is funded by revenues from extraordinary or targeted delinquent taxes. The additional staff would allow the Bureau to expand compliance actions and would increase general fund departmental revenues by an estimated $6.3 million in 2013-14 and $12.6 million in 2014-15.

DISCUSSION POINTS

1. The 2007-09 biennial budget (2007 Wisconsin Act 20) created a delinquent tax pilot project, the Intensive Collection Effort, under which certain targeted delinquent tax accounts were transferred to Compliance Bureau staff rather than to private collection agencies. Resources provided for the pilot project included reassigning 3.0 existing staff positions, expenditure authority of $505,700 PR in 2007-08 and $592,100 PR in 2008-09, and 7.0 PR project positions. The program revenue appropriation was created to fund the project positions and related costs, and the source of program revenues was revenues generated by the project. At the end of the fiscal year, the unencumbered balance in the appropriation lapses to the general fund. The 7.0 project positions provided for ICE activities expired after four years in 2010-11, and were deleted under 2011 Wisconsin Act 32 (the 2011-13 biennial budget). In April, 2012, the Audit Bureau was restructured to increase collection staff in the ICE unit. Seven new revenue agents were hired to supplement existing ICE staff. A total of 15.0 FTE existing positions are currently allocated to ICE unit activities.

2. ICE staff work on larger out-of income and business accounts and larger in-state income accounts that have not been resolved by the Compliance Bureau Central Collection Section. Seventy percent of staff work is directed at out-of-state accounts. Smaller balance accounts are referred to private collection agencies. DOR has authority to take certain actions including filing delinquent tax warrants to place a lien on property owned by the taxpayer, certifying wages for garnishment, and placing a levy on assets that are not available to private collection agencies. ICE staff have engaged in the following activities: (a) making direct contact with taxpayers whose accounts would normally be referred to collection agencies or the Field Compliance Section; (b) expanding involuntary collection activities, such as wage certifications, levies, and garnishments; (c) determining if personal liability assessments could be made against officers of corporations with delinquent taxes; (d) intensifying efforts related to locating and contacting delinquent taxpayers; (e) reviewing dormant and suspended accounts; (f) more closely reviewing accounts before they are written off as uncollectible; and (g) reviewing the income and out-of-state business accounts in the top 100 on the delinquent tax Internet site. Accounts not resolved in the ICE unit are either referred to the Field Compliance Unit, or referred to a private collection agency.

3. When an account is selected for referral to a private collection agency, a letter is first sent to the taxpayer offering an opportunity to resolve the account before the referral takes place. If the taxpayer does not make arrangements to resolve the debt, the liability is referred to one of three collection agencies. The collection agency contacts the taxpayer by mail or telephone to attempt to negotiate a settlement. Past-due returns, petitions for compromise, and requests for involuntary collection, such as wage attachment or bank levy, are referred to DOR liaisons. When a collection agency successfully resolves an account, it receives a contingency fee based on a percentage of the amount of the delinquent account that is collected. Contingency fee rates that were effective September 1, 2011, were 10.58%, 15.64%, or 18.4% depending on the agency. Accounts that are uncollectible by the collection agency are referred to the automated wage attachment and levy programs, and, if these actions are unsuccessful, the accounts are written off of the Department's accounts receivable system.

4. Table 1 shows the number of accounts and the amount of debt referred to private

collection agencies (as of the end of the fiscal year). The table also shows agency collections and the amounts paid to private collection agencies to collect tax debt for fiscal years 2008-09 to 2011-12. Private agency collection amounts do not include amounts collected by DOR. The table shows that the amount of delinquent tax debt outstanding at the end of the fiscal year for private collection agencies has dropped substantially, reflecting the increased amount of delinquencies worked on by the ICE unit. The table also shows that the amount of delinquent taxes collected by private collection agencies averaged 1.0% of the year-end outstanding delinquent tax debt, while the amount paid to an agency averaged $145,900.

TABLE 1

Delinquent Accounts Referred to Collection Agencies

Fiscal Year	Number of Accounts[a]	Amount Outstanding[b]	Amount Collected[c]	Percent Collected	Agency Payments[d]
2008-09	18,300	$255,283,900	$979,000	0.4%	$176,800
2009-10	14,700	156,286,900	814,600	0.5	144,400
2010-11	11,900	57,592,600	932,800	1.6	170,100
2011-12	11,000	45,135,700	736,400	1.6	92,300
Four-Year Average	14,000	$128,574,800	$865,700	1.0%	$145,900

[a]Number of debtors placed with the collection agency as of the end of the fiscal year
[b]Amount of debt referred to collection agencies as of the end of the fiscal year
[c]Collections by the collection agency. Does not include DOR collections.
[d]Total amount in fees paid to the collection agencies for services.

5. Table 2 shows the beginning delinquent tax balance and delinquent tax collections as a percent of the beginning balance for fiscal years 2008-09 to 2011-12. During that period, collections averaged 18.2% of the beginning balance, which is a considerably higher collection rate than that of private collection agencies. (The beginning balance minus collections will not equal the ending balance because accounts are added during the year, while others are written off.) Table 3 shows ICE unit collections for 2008-09 to 2011-12. Unit collections were substantially larger than those of the private collection agencies. For fiscal years 2008-09 to 2011-12, ICE collections averaged $17.5 million, while private agency collections averaged less than $1 million. However, Department actions do not always generate additional revenues, and actions taken can also lead to litigation and additional costs to DOR. In addition, the accounts that are referred to collection agencies are often smaller and more difficult to resolve, particularly since ICE activities began.

TABLE 2

Delinquent Tax Balance and Collections by ICE

	2008-09	2009-10	2010-11	2011-12	Average
Beginning Balance	$1,032,017,800	$1,144,390,000	$1,004,613,900	$933,909,900	$1,028,732,900
Collections	153,135,800	192,917,700	202,667,900	198,231,000	186,738,100
Percent of Beginning Balance	14.8%	16.9%	20.2%	21.2%	18.2%

TABLE 3

Intensive Collection Effort (ICE) Collections

Fiscal Year	Collections
2008-09	$12,843,600
2009-10	27,682,400
2010-11	18,244,800
2011-12	11,149,700
Average	$17,480,100

6. Table 4 shows the delinquent tax balance by type of tax for fiscal years 2008-09 to 2011-12. The delinquent balance has remained relatively stable, between $900 million and $1.1 billion. In 2011-12, over 60% of the delinquent balance was individual income and withholding taxes. DOR believes that providing permanent staffing for the ICE unit would allow the Department to return existing positions to their original activities to work on further reducing the delinquent tax balance.

TABLE 4

Delinquent Tax Balance by Tax Type 2008-2009 to 2011-12

	2008-09		2009-10		2010-11		2011-12	
Tax	Balance	% of Total	Balance	% of Total	Balance	% of Total	Balance	% of Total
Corporate Franchise	$86,393,900	7.5%	$67,584,500	6.7%	$48,490,500	5.2%	$62,558,500	6.3%
Individual Income	536,952,700	46.9	472,074,800	47.0	476,292,200	51.0	509,605,500	51.1
Sales/Use	331,798,800	29.0	297,479,400	29.6	267,978,000	28.7	268,129,000	26.9
Withholding	172,994,300	15.1	155,939,900	15.5	121,910,700	13.1	113,084,200	11.3
Miscellaneous	16,250,300	1.4	11,390,900	1.1	16,207,400	1.7	15,106,600	1.5
Subtotal	$1,144,390,000	100.0%	$1,004,469,500	100.0%	$930,878,800	99.7%	$968,483,800	97.0%
Other Agency Debt	0	0.0%	144,400	0.0%	3,031,200	0.3%	29,736,100	3.0%
Total	$1,144,390,000	101.4%	$1,004,613,900	100.0%	$933,910,000	100.0%	$998,219,900	100.0%

7. The year-end delinquent balance for 2011-12 is $998.2 million. However, for a number of reasons, the amount is not entirely collectible. The balance includes amounts that are owed by deceased taxpayers, amounts covered in an open bankruptcy claim, and amounts referred to collection agencies. Only a portion, if any, of these accounts are recoverable. In addition, approximately 41% of the delinquent balance is based on estimated assessments. Some of this amount will be uncollectible or adjusted to reflect the actual balance. The delinquent balance includes accounts that have aged. The Bureau estimates that 80% of receivables that are older than eight years will be written off as uncollectible. Other accounts have been thoroughly moved through the compliance process and have been determined to be uncollectible on a cost-benefit basis. These accounts include defunct corporations, accounts returned by collection agencies, and accounts determined to be uncollectible by supervisory personnel. DOR estimates that $400.7 million, or 41%, of the $998.2 million delinquent balance in 2011-12 is actually collectible.

8. Under the bill, DOR would be provided expenditure authority of $739,300 PR in 2013-14 and $950,700 PR in 2014-15, and 14.0 PR revenue agent positions and 1.0 PR revenue agent supervisor position beginning in 2013-14, to provide permanent funding and positions for ICE compliance activities. The expenditure authority would be provided in the collections by the Department, program revenue appropriation, and the source of revenue for the appropriation is ICE delinquent tax collections. The year-end, unencumbered balance in the appropriation is lapsed to the general fund. Based on prior year collection activities, DOR estimates that ICE activities generate a minimum of $10 million annually. As a result, the estimated year-end lapse to the general fund would be at least $9.3 million in 2013-14 and $9.0 million in 2014-15.

9. The bill includes the following law changes that are designed to enhance the Department's delinquent tax collection activities:

The Department would be authorized to impose both a continuous or a non-continuous levy to collect delinquent taxes. A continuous levy would mean a levy that is in effect from the date on which it is served on a third party until the earlier of: (a) when the liability out of which the levy arose is satisfied; or (b) until the levy is released. A levy imposed on commissions, wages, or salaries would have to be continuous. Under current law, a levy on salary, wages, and commissions is continuous until the liability is satisfied. All other levies on property are non-continuous.

The Department would be authorized to impose a levy to collect delinquent sales and use taxes. Under current law, DOR can use powers authorized to collect income and franchise taxes, such warrant executions, garnishments and wage certifications, to collect delinquent sales and use taxes. However, the Department is not authorized to impose a levy to collect delinquent sales and use taxes.

DOR would be allowed to use the same methods and procedures that it uses in collecting delinquent income and franchise taxes, including issuing tax warrants, imposing liens on property, and imposing a levy, to collect delinquent public utility and telephone company taxes. Current law does not specifically authorize DOR to use these methods. This provision would increase state telecommunications and utility taxes by an estimated $92,000, annually.

A current provision that authorizes DOR to write-off specified taxes and economic development surcharge liabilities determined to be uncollectible would be modified to include all taxes and fees that are determined to be not collectible. Currently, this provision only applies to income, franchise, sales, use, withholding, motor fuel, gift, beverage, and cigarette taxes and the economic development surcharge.

10. DOR believes that the proposed law changes would provide Compliance Bureau personnel with additional tools to assist in the collection of delinquent taxes. Based on past Bureau collections, DOR estimates that Compliance Bureau actions would generate additional delinquent tax collections of $6.3 million in 2013-14 and $12.6 million in 2014-15.

ALTERNATIVES

1. Approve the Governor's recommendation.

2. Delete provision.

ALT 2	**Change to Bill**		
	Revenue	Funding	Positions
GPR-Tax	- $184,000		
GPR-Earned	- 18,900,000		
PR		- $1,690,000	- 15.00

Prepared by: Ron Shanovich