

CHAPTER 256

AN ACT to amend 71.10 (section heading) ; and to create 71.10 (14) of the statutes, relating to filing income tax returns and securing payment to the state of income tax by nonresidents doing construction work in Wisconsin.

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

SECTION 1. 71.10 (section heading) of the statutes is amended to read:

71.10 (section heading) FILING RETURNS; PAYMENT OF TAX; TAX REFUNDS AND CREDITS; NONRESIDENT CONTRACTOR'S SURETY BOND.

SECTION 2. 71.10 (14) of the statutes is created to read:

(14) (a) All nonresident persons, whether incorporated or not, engaging in construction contracting in this state as contractor or subcontractor and not otherwise regularly engaged in business in this state, shall file a surety bond with the department of taxation, payable to the Wisconsin department of taxation, to guarantee the payment of income taxes, on the income from such contracts, together with any penalties and interest thereon. The department of taxation shall approve the form and contents of such bond. The amount of the bond shall be one per cent of the contract or subcontract price on all contracts of \$50,000 or more or one per cent of the contractor's or subcontractor's estimated cost-and-profit under a cost-plus contract of \$50,000 or more. When the aggregate of 2 or more contracts in one calendar year is \$50,000 or more the amount of the bond or bonds shall be one per cent of the aggregate amount of such contracts. Such surety bond must be filed within 60 days after construction is begun in this state by any such contractor or subcontractor on any contract the price of which is \$50,000 or more (or the estimated cost-and-profit of which is \$50,000 or more), or within 60 days after construction is begun in this state on any contract for less than \$50,000, when the amount of such contract, when aggregated with any other contract or contracts, construction on which was begun in this state in the same calendar year, equals or exceeds \$50,000. In the event the department of taxation concludes that no bond is necessary to protect the tax revenues of the state the requirements under this subsection may be waived by the commissioner of taxation or his designated departmental representative. The bond shall remain in force until the liability thereunder is released by the commissioner of taxation or his designated departmental representative.

(b) A construction contractor required to file a surety bond under par. (a) may, in lieu of such requirement, but subject to approval by the department of taxation, deposit with the state treasurer an amount of cash equal to the face of the bond that would otherwise be required. If an offer to deposit is made the department of taxation shall issue a certificate to the state treasurer authorizing him to accept payment of such moneys and to give his receipt therefor. A copy of such certificate shall be mailed to the contractor who shall, within the time fixed by the department of taxation, pay such amount to said treasurer. A copy of the receipt of the state treasurer shall be filed with the department of taxation. Upon final determination by the department of such contractor's liability for state income taxes, interest and penalties, by reason of such contract or

contracts, the department shall certify to the state treasurer the amount of taxes, penalties and interest as finally determined, shall instruct him as to the proper distribution of such amount, and shall state the amount, if any, to be refunded to such contractor. The state treasurer shall make the payments directed by such certificate within 30 days after receipt thereof. Amounts refunded to the contractor shall be without interest.

(c) All persons subject to the provisions of this subsection shall notify the department of taxation of the completion of a construction project in this state within 30 days after such completion.

(d) Any person who fails or refuses to comply with the provisions of this subsection shall be fined not less than \$300 nor more than \$5,000.

Approved June 16, 1955.