



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRBs0268/1  
JK:all

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 226**

January 26, 2016 - Offered by Representative KREMER.

1 **AN ACT to amend** 71.82 (1) (a), 71.82 (1) (c), 71.82 (2) (b), 71.82 (2) (d), 71.84 (1),  
2 71.84 (2) (a), 71.84 (2) (c), 71.91 (6) (e) 3., 71.91 (6) (f) 5., 77.60 (1) (a), 77.60 (1)  
3 (b), 77.96 (5) and 78.68 (1); and **to create** 73.16 (3m) of the statutes; **relating**  
4 **to:** interest rates on past due amounts.

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***Analysis by the Legislative Reference Bureau***

Under current law, a taxpayer must pay interest on any amount owed to the Department of Revenue that is past due, but not delinquent, at the rate of 12 percent per year. Under the substitute amendment, DOR must reduce the interest rate on such amounts by 0.5 percent each year until the rate equals 4 percent plus the prime rate, as reported by the Federal Reserve Board.

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

5 **SECTION 1.** 71.82 (1) (a) of the statutes is amended to read:  
6 71.82 (1) (a) In assessing taxes interest shall be added to such taxes at ~~12%~~ the  
7 rate determined under s. 73.16 (3m) per year from the date on which such taxes if

1 originally assessed would have become delinquent if unpaid, to the date on which  
2 such taxes when subsequently assessed will become delinquent if unpaid.

3 **SECTION 2.** 71.82 (1) (c) of the statutes is amended to read:

4 71.82 (1) (c) Any assessment made as a result of the adjustment or disallowance  
5 of a claim for credit under s. 71.07, 71.28 or 71.47 or subch. VIII or IX, except as  
6 provided in sub. (2) (c), shall bear interest at ~~12%~~ the rate determined under s. 73.16  
7 (3m) per year from the due date of the claim.

8 **SECTION 3.** 71.82 (2) (b) of the statutes is amended to read:

9 71.82 (2) (b) *Department may reduce delinquent interest.* The department shall  
10 provide by rule for reduction of interest under par. (a) to ~~12%~~ the rate determined  
11 under s. 73.16 (3m) per year in stated instances wherein the secretary of revenue  
12 determines that reduction is fair and equitable.

13 **SECTION 4.** 71.82 (2) (d) of the statutes is amended to read:

14 71.82 (2) (d) *Withholding tax.* Of the amounts required to be withheld any  
15 amount not deposited or paid over to the department within the time required shall  
16 be deemed delinquent and deposit reports or withholding reports filed after the due  
17 date shall be deemed late. Delinquent deposits or payments shall bear interest at  
18 the rate of 1.5% per month from the date deposits or payments are required under  
19 this section until deposited or paid over to the department. The department shall  
20 provide by rule for reduction of interest on delinquent deposits to ~~12%~~ the rate  
21 determined under s. 73.16 (3m) per year in stated instances wherein the secretary  
22 of revenue determines reduction fair and equitable. In the case of a timely filed  
23 deposit or withholding report, withheld taxes shall become delinquent if not  
24 deposited or paid over on or before the due date of the report. In the case of no report  
25 filed or a report filed late, withheld taxes shall become delinquent if not deposited

1 or paid over by the due date of the report. In the case of an assessment under s. 71.83  
2 (1) (b) 2., the amount assessed shall become delinquent if not paid on or before the  
3 first day of the calendar month following the calendar month in which the  
4 assessment becomes final, but if the assessment is contested before the tax appeals  
5 commission or in the courts, it shall become delinquent on the 30th day following the  
6 date on which the order or judgment representing final determination becomes final.

7 **SECTION 5.** 71.84 (1) of the statutes is amended to read:

8 71.84 (1) INDIVIDUALS AND FIDUCIARIES. Except as provided in s. 71.09 (11), in  
9 the case of any underpayment of estimated tax by an individual, estate or trust,  
10 except as provided under s. 71.09, there shall be added to the aggregate tax for the  
11 taxable year interest at the rate of ~~12%~~ determined under s. 73.16 (3m) per year on  
12 the amount of the underpayment for the period of the underpayment. In this  
13 subsection, “the period of the underpayment” means the time period from the due  
14 date of the installment until either the 15th day of the 4th month beginning after the  
15 end of the taxable year or the date of payment, whichever is earlier.

16 **SECTION 6.** 71.84 (2) (a) of the statutes is amended to read:

17 71.84 (2) (a) Except as provided in s. 71.29 (7), in the case of any underpayment  
18 of estimated tax under s. 71.29 or 71.48 there shall be added to the aggregate tax for  
19 the taxable year interest at the rate of ~~12%~~ determined under s. 73.16 (3m) per year  
20 on the amount of the underpayment for the period of the underpayment. For  
21 corporations, except as provided in par. (b), “period of the underpayment” means the  
22 time period from the due date of the installment until either the 15th day of the 3rd  
23 month beginning after the end of the taxable year or the date of payment, whichever  
24 is earlier. If 90% of the tax shown on the return is not paid by the 15th day of the 3rd  
25 month following the close of the taxable year, the difference between that amount

1 and the estimated taxes paid, along with any interest due, shall accrue delinquent  
2 interest under s. 71.91 (1) (a).

3 **SECTION 7.** 71.84 (2) (c) of the statutes is amended to read:

4 71.84 (2) (c) If a refund under s. 71.29 (3m) results in an income or franchise  
5 tax liability that is greater than the amount of estimated taxes paid in reduced by  
6 the amount of the refund, the taxpayer shall add to the aggregate tax for the taxable  
7 year interest at an annual rate of 12% determined under s. 73.16 (3m) on the amount  
8 of the unpaid tax liability for the period beginning on the date the refund is issued  
9 and ending on the 15th day of the 3rd month beginning after the end of the taxable  
10 year, or the date the tax liability is paid, whichever is earlier.

11 **SECTION 8.** 71.91 (6) (e) 3. of the statutes is amended to read:

12 71.91 (6) (e) 3. For purposes of an adjudication under this paragraph, the  
13 assessment of the tax upon which the interest or lien of the department is based is  
14 conclusively presumed to be valid. Interest shall be allowed for judgments under this  
15 paragraph at the rate of 12% determined under s. 73.16 (3m) per year from the date  
16 the department receives the money wrongfully levied upon to the date of payment  
17 of the judgment or from the date of sale to the date of payment.

18 **SECTION 9.** 71.91 (6) (f) 5. of the statutes is amended to read:

19 71.91 (6) (f) 5. Before the sale, the department shall determine a minimum  
20 price for which the property shall be sold. If no person offers for that property at the  
21 sale at least the amount of the minimum price, the state shall purchase the property  
22 for the minimum price; otherwise, the property shall be sold to the highest bidder.  
23 In determining the minimum price, the department shall take into account the  
24 expense of making the levy and sale in addition to the value of the property. If  
25 payment in full is required at the time of acceptance of a bid and is not paid then, the

1 department shall sell the property in the manner provided under this paragraph.  
2 If the conditions of the sale permit part of the payment to be deferred and if that part  
3 is not paid within the prescribed period, the department may sue the purchaser in  
4 the circuit court for Dane County for the unpaid part of the purchase price and  
5 interest at the rate of ~~12%~~ determined under s. 73.16 (3m) per year from the date of  
6 the sale or the department may declare the sale void and may sell the property again  
7 under this paragraph. If the property is sold again, the 2nd purchaser shall receive  
8 it free of any claim of the defaulting purchaser and the amount paid upon the bid  
9 price by the defaulting purchaser is forfeited.

10 **SECTION 10.** 73.16 (3m) of the statutes is created to read:

11 73.16 (3m) CALCULATION OF INTEREST RATES. Beginning on October 1, 2017, and  
12 on each October 1 thereafter, the department shall determine and publish an interest  
13 rate that is applicable to unpaid amounts owed to the department that become due  
14 in the next calendar year. The rate in effect on January 1, 2018, is 11.5 percent. The  
15 department shall reduce the rate by 0.5 percent on January 1 of each year until the  
16 rate equals the sum of 4 percent and the federal short-term rate in effect on July 1  
17 of the year immediately preceding the calendar year for which the department is  
18 determining the rate. A change in the interest rate under this subsection applies to  
19 any outstanding tax balance owed to the department that is not delinquent  
20 regardless of the rate in effect at the time that the tax accrued.

21 **SECTION 11.** 77.60 (1) (a) of the statutes is amended to read:

22 77.60 (1) (a) Except as provided in par. (b), unpaid taxes shall bear interest at  
23 the rate of ~~12%~~ determined under s. 73.16 (3m) per year from the due date of the  
24 return until paid or deposited with the department. Taxes refunded to the seller  
25 shall bear interest at 3 percent per year from the due date of the return to the date

1 on which the refund is certified on the refund rolls. An extension of time within  
2 which to file a return shall not extend the due date of the return for purposes of  
3 interest computation. Taxes refunded to the buyer shall bear interest at 3 percent  
4 per year from the last day of the month following the month during which the buyer  
5 paid the tax to the date on which the refund is certified on the refund rolls.

6 **SECTION 12.** 77.60 (1) (b) of the statutes is amended to read:

7 77.60 (1) (b) Any unpaid taxes for a calendar year or a fiscal year resulting from  
8 ~~a field~~ an audit under s. 77.59 shall bear interest at the rate of ~~12%~~ determined under  
9 s. 73.16 (3m) per year from the due date of the taxpayer's Wisconsin income or  
10 franchise tax return for that calendar or fiscal year or, if exempt, from the 15th day  
11 of the 4th month of the year after the close of the calendar or fiscal year for which the  
12 taxes are due to the date on which the taxes are paid or, if unpaid, become delinquent,  
13 whichever is earlier.

14 **SECTION 13.** 77.96 (5) of the statutes is amended to read:

15 77.96 (5) Each person subject to a surcharge under s. 77.93 shall, on or before  
16 the due date, including extensions, for filing under ch. 71, file an accurate statement  
17 of its gross tax liability. Payments made after the due date under sub. (2) and on or  
18 before the due date under this subsection are not delinquent but are subject to  
19 interest at the rate of ~~12%~~ determined under s. 73.16 (3m) per year.

20 **SECTION 14.** 78.68 (1) of the statutes is amended to read:

21 78.68 (1) Unpaid taxes shall bear interest at the rate of ~~12%~~ determined under  
22 s. 73.16 (3m) per year from the due date of the tax until paid or deposited with the  
23 department, and all refunded taxes bear interest at the rate of 3 percent per year

1 from the due date of the return to the date on which the refund is certified on the  
2 refund rolls.

3 (END)