



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0255/P2
JK:kjf:ph

DOA:.....Ley, BB0099 – Reliance on past audits

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under this bill, generally, a person who is subject to an assessment or audit determination by DOR is not liable for any amount that DOR asserts that the person owes if the liability asserted is the result of a tax issue that existed in a prior assessment or audit, a DOR employee involved in the prior assessment or audit knew of the tax issue, and DOR did not assert the liability for the tax issue at the time of the prior assessment or audit. This provision, however, does not cover the treatment of tax issues that were not specifically addressed in the prior assessment or audit determination by DOR.

For further information see the *state* 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:

SECTION 1. 73.16 (1) (a) of the statutes is repealed.

SECTION 2. 73.16 (1) (ab) of the statutes is created to read:

73.16 (1) (ab) “Combined group” has the meaning given in s. 71.255 (1) (a).

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

73.16 (3) RELYING ON PAST AUDITS. (a) A person who is subject to a determination by the department, including all other members of that person’s combined group for purposes of determining the tax due under s. 71.23 for taxable years beginning after December 31, 2008, shall not be liable for any amount that the department asserts that the person owes if all of the following conditions are satisfied:

1. The liability asserted by the department is the result of a tax issue during the period associated with a prior determination for which the person is subject to and the tax issue is the same as the tax issue during the period associated with the current determination.

2. A department employee who was involved in the prior determination identified or reviewed the tax issue before completing the prior determination, as shown by any schedules, exhibits, audit reports, documents, or other written evidence pertaining to the determination, and the schedules, exhibits, reports, documents and other written evidence show that the department did not adjust the person’s treatment of the tax issue.

3. The liability asserted by the department as described under subd. 1. was not asserted in the prior determination.

(b) This subsection does not apply to any period associated with a determination, if the period begins after the promulgation of a rule, dissemination of written guidance to the public or to the person who is subject to the determination, the effective date of a statute, or the date on which a tax appeals commission or court decision becomes final and conclusive and if the rule, guidance, statute, or decision imposes the liability as a result of the tax issue described in par. (a) 1. This subsection

does not apply to any period associated with a determination if the taxpayer did not give the department employee adequate and accurate information or if the issue is settled by a written agreement between the department and the taxpayer.

SECTION 9337. Initial applicability; Revenue.

(1) RELYING ON PAST AUDITS. The treatment of section 73.16 (1) (a) and (ab) and (3) of the statutes first applies to audit determinations issued on January 1, 2014, regardless of when a prior audit determination was made.

(END)