

## CHAPTER 73.

## BOARD OF TAX APPEALS; DEPARTMENT OF TAXATION.

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73.01 Board of tax appeals. (1) CREATION. There is created a separate department of state government to be designated and known as "Wisconsin Board of Tax Appeals" which shall be composed of three members. The word "board" as used in this section, and the words "board of tax appeals" used elsewhere in the statutes, refer to said Wisconsin board of tax appeals. "Person" as used in this section and in section 73.015 means and includes natural persons, fiduciaries and corporations.

(2) APPOINTMENTS; QUALIFICATIONS; TERMS OF OFFICE; VACANCIES. Members of the board shall be appointed by the governor by and with the advice and consent of the senate solely on the basis of fitness to perform the duties of the office, and shall be experienced in tax matters. The governor shall in each odd-numbered year designate one of the members to be chairman of the board. On September 1, 1963 the term of office of each member of the Wisconsin board of tax appeals shall expire and the 3 offices of member of said board shall be vacant. Thereupon appointment shall be made of successor members to said board for terms beginning on the date of appointment, one such term to expire on October 1, 1963, one on the first Monday of May, 1967 and one on the first Monday of May, 1965. Thereafter appointments of successor members shall be for terms of 6 years and shall be made at least 30 days prior to the expiration of the term to be filled by such appointment, and during the biennial session of the legislature within which the term of a member expires. Vacancies shall be filled as provided in s. 17.20. Each member of the board shall take and file the official oath before entering upon the performance of his duties.

(2m) FULL-TIME OFFICE. The chairman of the board shall not hold any other office or position of profit, or pursue any other business or vocation, or serve on or under any committee of any political party, but shall devote his entire time to the duties of his office.

(3) SALARIES; EXPENSES; EMPLOYES. (b) The board may appoint and fix the salaries, subject to the provisions of chapter 16, of such employes, including a clerk, and may make such expenditures for library, publications and equipment, as may be necessary in order to carry out its functions.

(c) Expenditures of the board shall be paid and allowed out of the moneys appropriated therefor upon proper certification thereof of the chairman or other member designated by the board for that purpose.

(4) ORGANIZATION; OFFICE; REPORTS. (a) A majority of the members of the board shall constitute a quorum thereof. The board shall have a seal which shall be judicially noticed.

(b) The principal office of the board shall be in Madison but the board, or any member thereof, may hold hearings at any place within the state. The time and place of meetings and hearings shall be designated by the chairman. Adequate offices or rooms shall be provided for the board in the state capitol or elsewhere in the city of Madison, and rooms for hearings outside the city of Madison shall be provided under section 73.07.

(c) The board shall provide for the publication of such of its reports, decisions and opinions as are of public interest in such form as it may deem best adapted for public convenience and use. Such publications shall constitute the official reports of the board and shall be made available for sale and distribution to the public under the provisions of chapter 35. The board shall transmit to the governor and to each member of the legislature, within thirty days after the regular biennial session of the legislature shall have convened, a report, covering the period from the date of the last such report to the end of the next preceding calendar year, setting forth such facts with respect to the nature, extent and status of its work as the board deems advisable. The board shall make such further reports to the governor or the legislature as they may request.

(5) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial review contained in the statutes, the board shall be the final authority for the hearing and determination of all questions of law and fact arising under the tax laws of the state, except such as may be otherwise expressly designated. Whenever with respect to a pending appeal there is filed with the board a stipulation signed by the department of taxation and the adverse party, pursuant to section 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the board shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the board, respecting the signing of such order of dismissal as to any pending appeal settled by the department without the approval of the board.

(b) Any matter required to be heard by the board may be heard by any member of the board and reported to the full board for determination, and hearings of matters pending before it shall be assigned to members of the board by the chairman. Hearings shall be open to the public and all proceedings shall be conducted in accordance with the rules of practice and procedure prescribed by the board, the power to make such rules being expressly here conferred upon it.

(bn) The parties to any matter required to be heard and decided by the board, except appeals arising under s. 70.64 or ch. 76, may consent in writing that the chairman or any member of the board assigned to hear the matter may render an oral decision, and that the parties waive the right to appeal such decision. Such oral decision shall not be binding upon the department, as to statutory construction, in a subsequent matter. Provisions of this section, s. 73.015 or ch. 227 in conflict herewith shall not apply to decisions rendered under this paragraph.

(c) The board shall upon the request of any party to a matter pending before it, or of any officer of the state government, or may upon its own motion, order that all proceedings in a matter pending before it be reported by a stenographer, and the expense thereof shall be paid by the state out of the appropriation for the board. The board may contract for the report of such proceedings and may supply copies of the transcript of the proceedings to anyone requesting the same at the expense of the person making such request. All moneys received by the board from the sale of transcripts of testimony and proceedings shall be paid into the state treasury within one week after receipt. If no party to a matter pending before the board requests that the proceedings held with respect thereto be reported, and the board does not so order upon its own motion, all parties shall be deemed to have waived all rights of appeal to the courts upon questions as to the admission or exclusion of evidence, or as to whether a finding of the board is warranted by the evidence. The right of appeal upon questions of law raised by the pleadings or by facts stipulated or shown by the findings of the board shall not be deemed to be waived.

(d) Any member of the board or any employe of the board, designated in writing for the purpose by the chairman, may administer oaths, and any member of the board may summon and examine witnesses and require by subpoena the production of all returns, books, papers, documents, correspondence and other evidence pertaining to the matter under inquiry, at any designated place of hearing and may require the taking of a deposition before any person competent to administer oaths, either within or without the state, upon notice to the interested party in like manner that depositions of witnesses are taken in civil actions pending in the circuit court. Any party to a matter pending before the board may summon witnesses or require the production of papers in the same manner as witnesses are summoned or papers required to be produced in civil actions in the circuit court. Any person summoned or whose deposition is taken shall receive the same fees and mileage as would be allowed in a civil action pending in the circuit court, and the expense thereof shall be paid by the person summoning such witness or causing the deposition to be taken.

(dn) In connection with the hearing of any matter required to be heard and decided by the board, except appeals arising under s. 70.64 or ch. 76, where a stenographic report of the hearing is being made, the chairman or any member of the board assigned to hear the matter may, with the consent of the parties, render an oral decision. Any party may appeal such oral decision as provided in s. 73.015 and ch. 227. Oral decisions shall constitute notice for purposes of determining the time in which appeals may be taken. Provisions of this section or ch. 227 in conflict herewith, shall not apply to decisions rendered under this paragraph.

(e) The board in each case heard by it shall, irrespective of ch. 227, make a decision in writing accompanied by findings of fact and conclusions of law. The board may

issue an opinion in writing in addition to its findings of fact and decision. The decision or order of the board shall become final and shall be binding upon the petitioner and upon the department of taxation unless an appeal is taken from the decision or order of the board under s. 73.015. If the board construes a statute adversely to the contention of the department of taxation, the department shall be deemed to acquiesce in the construction so adopted unless the department seeks review of the order or decision of the board so construing the statute. The construction so acquiesced in shall thereafter be followed by the department.

(f) All reports, findings, decisions and opinions of the board, and all evidence received by the board, including a transcript of any report of the proceedings, shall be open to the inspection of the public, except that the originals of books, documents, records, labels, diagrams, and other exhibits introduced in evidence before the board, may be withdrawn from the custody of the board in such manner and upon such terms as the board may, in its discretion, prescribe.

(6) APPEALS TO BOARD. (a) Any person who has filed an application for abatement or a claim for refund with the department of taxation or assessor of incomes and who is aggrieved by a determination of the department or assessor denying such application for abatement or claim for refund, may, within 30 days after such denial but not thereafter, file a petition for review of the action of the department or assessor and 4 copies thereof with the clerk of the board and the clerk of the board shall transmit one of the copies to the department of taxation. At the time of filing said petition, the petitioner shall pay to the board of tax appeals a \$5 filing fee which the board shall deposit in the general fund. Within 30 days after such transmission the department shall file an original and 3 copies of an answer to said petition with the clerk of the board and shall serve one copy thereof on the petitioner or his attorney or agent. Within 30 days after service of such answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the board under s. 76.38 (12) (a), 76.39 (4) (c) or 76.48 may file a petition with the board within the time and in the manner provided for the filing of petitions in income tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review shall be considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the 30th day.

(b) The petition shall set forth specifically the facts upon which the petitioner relies, together with a statement of the propositions of law involved, and shall be in such form as the board by rule designates. After an answer is filed as provided in par. (a), the matter shall be regarded as at issue and the board shall set it for hearing. At all times while said appeal is pending before the board, the petitioner shall keep the board informed as to his residence. Upon his failure to do so, the mailing by the board of a notice of hearing, decision and order or other papers by registered mail to his attorney or to the petitioner's last known address shall constitute good and sufficient service. Petitions and answers may be amended under rules to be prescribed by the board.

(c) Whenever an appeal is taken from any determination of the commissioner of taxation under the provisions of subsection (5) (a) and no other procedure for appeal is specified in chapter 73 or chapter 76, the person feeling aggrieved by such determination shall file with the clerk of the board an original and 4 copies of petition for review within 30 days after such determination, but not thereafter, and the clerk of the board shall forthwith transmit one of the copies to the commissioner of taxation. The provisions of paragraph (a) shall apply in so far as the time for and service of an answer by the commissioner of taxation is required and also with respect to the filing of a reply by the petitioner.

**History:** 1963 c. 225, 280, 372, 459; 1965 c. 592; 1967 c. 43, 109.

The board of tax appeals, on appeal to it from an additional assessment of income taxes, has no power under 71.11 (19) and 73.01 (5) (a) to increase the assessment over the amount determined by the department in the notice of assessment appealed from. Under 73.01 (6) (a), a petition filed with the board of tax appeals for the review of a determination of the department denying an application for abatement or claim for refund is "for review of the action of the department or assessor," and such section does not contemplate that the department, in denying an application for abatement or claim for refund, can change its position and assess different or new items of additional tax before the board and the board reassess an additional tax, but the proper procedure is an audit by the department if the year is still open. Department of Taxation v. Blatz Breving Co. 12 W (2d) 615, 108 NW (2d) 319. See note to Art. I, sec. 9, citing Metzger v. Department of Taxation, 35 W (2d) 119, 150 NW (2d) 431.

**73.015 Review of determination of Wisconsin board of tax appeals.** (1) This section shall provide the sole and exclusive remedy for review of any decision or order of the board and no person shall contest, in any action or proceeding, any matter reviewable by the board unless such person has first availed himself of a hearing before the board under s. 73.01.

(2) Determinations of the board shall be subject to review in the manner provided in chapter 227, except that proceedings therefor involving taxes of persons other than corporations shall be instituted in the circuit court of the county where the taxpayer resides, and proceedings involving taxes of nonresident individuals or fiduciaries shall be instituted in the circuit court of the county which includes the situs of the property or income assessed, or if there be more than one such county, to the circuit court of any one of such counties. If the circuit court construes a statute adversely to the contention of the department of taxation, the department shall be deemed to acquiesce in the construction so adopted unless an appeal to the supreme court is taken, and the construction so acquiesced in shall thereafter be followed by the department.

**History:** 1967 c. 109.

Where the paper evidences of a portion of the intangible assets of the corpus were present in Milwaukee county during part of the year of 1952, this was sufficient, under 73.015 (1), to confer jurisdiction on the circuit court for Milwaukee county for the purpose of determining whether the trusts in issue were "administered" in this state within the meaning of 71.08 (8) for the years 1952, 1953, and 1954. Department of Taxation v. Pabst, 15 W (2d) 195, 112 NW (2d) 161.

See note to Art. I, sec. 9, citing Metzger v. Department of Taxation, 35 W (2d) 119, 150 NW (2d) 431.

**73.02 Department of taxation.** (1) **CREATION.** There is created a state department of taxation which shall consist of a commissioner of taxation and such other officers and employes as may be hereinafter authorized.

(2) **COMMISSIONER OF TAXATION.** The governor by and with the advice and consent of the senate shall appoint a commissioner of taxation, who shall serve for a term as herein provided and until his successor has been appointed and qualified. The term of office of the person holding the office of commissioner of taxation on September 1, 1963 shall expire on said date. The commissioner to be initially appointed after this amendment shall be appointed for a term to begin on the effective date of this amendment (1963) and to end July 1, 1965. Successors shall be appointed for terms of 6 years at least 30 days prior to the expiration of the term to be filled by such appointment and during the biennial session of the legislature within which the term of the commissioner then holding office expires. Vacancies shall be filled as provided in s. 17.20. The commissioner shall take and file the official oath before entering upon the performance of his duties. Such appointments shall be made on the basis of recognized and demonstrated interest in and knowledge of the problems of taxation and shall be made without regard to party affiliation, or because of interest in any special organized group. There shall be provided for the use of the department of taxation adequate offices or rooms in the state capitol or elsewhere in the city of Madison.

(3) **DIVISIONS OF DEPARTMENT OF TAXATION.** The department of taxation shall consist of such divisions as the commissioner finds necessary for the effective administration of the department.

(4) **DIVISION HEADS.** The commissioner shall appoint, under the classified service, a single head for each of the divisions created under sub. (3).

(5) **DEPUTY COMMISSIONER.** The commissioner of taxation may appoint a deputy commissioner of taxation to be selected by him from the division heads appointed under s. 73.02 (4) or from his tax counsel. In the absence or disability of the commissioner, the deputy may do and perform all the acts provided by statute to be performed by the commissioner, and the commissioner shall be responsible for all acts of his deputy. The deputy shall also perform such other duties (over and above his duties as division head or tax counsel) as the commissioner shall by rule prescribe. The appointment shall be made by written notice filed in the office of the secretary of state, and may be revoked at any time in the discretion of the commissioner by written revocation filed in the office of the secretary of state. Before entering upon the performance of his duties as deputy the appointee shall take and file the official oath of office required by law of the commissioner of taxation. The appointment of a person as deputy pursuant to this subsection shall not affect such person's status under the classified civil service, but for each month that such person serves as deputy he shall receive additional compensation not to exceed \$50.

(6) **FUNCTIONS, HOW EXERCISED.** The functions, powers and duties imposed by law upon the department of taxation may be exercised by the commissioner of taxation, by the head of the division having charge of the field within which the function, power or duty lies, or by any employe of the division duly authorized by the commissioner.

(7) **INCOME TAX CO-ORDINATOR.** The commissioner shall designate or appoint under the classified service, within the department of taxation, an income tax co-ordinator, whose duties shall include the setting up and operation of a co-ordination program with the internal revenue service to facilitate the reporting of federal adjustments to the department and the interchange of information with respect to examination of returns,

adjustments to income, extension of limitations, furnishing copies of returns and other activities essential to an integrated and effective co-ordination program with the internal revenue service.

(8) **TAXATION ADVISORY COMMITTEE.** The commissioner of taxation may appoint not more than 11 advisors who shall, without compensation other than the reimbursement of necessary expenses, advise the department of taxation in matters relating to tax administration. Such expenses shall be audited and paid out of the appropriation under s. 20.566.

**History:** 1963 c. 225; 1965 c. 163, 433, 472, 625; 1967 c. 26, 291 s. 14.

**73.03 Powers and duties defined.** It shall be the duty of the department, and it shall have power and authority:

(1) To have and exercise general supervision over the administration of the assessment and tax laws of the state, over assessors, boards of review, supervisors of assessments, and assessors of incomes, and over the county boards in the performance of their duties in making the taxation district assessment, to the end that all assessments of property be made relatively just and equal at full value and that all assessments of income may be legally and accurately made in substantial compliance with law.

(2) To confer with, advise and direct assessors, boards of review, county boards of assessment and assessors of incomes as to their duties under the statutes of the state.

(2a) On or before January 1, 1965, to prepare, have published and distribute to each town, city and village in the state for use of the assessor and his staff one or more detailed assessment manuals discussing and illustrating accepted assessment methods, techniques and practices with a view to more uniform and consistent assessments of property at the local level. Such manual shall be amended by the department from time to time to reflect advances in the science of assessment, court decisions concerning assessment practices, costs, and statistical and other information deemed valuable to local assessors by the department. The cost of the initial distribution of such manuals and of the distribution of any amendments thereto to such municipalities shall be borne by the requester at cost as determined by the department.

(3) To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officers, persons, and officers or agents of corporations for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against assessors, members of boards of review, assessors of incomes, and members of county boards, or other assessing or taxing officers, to the proper circuit judge for their removal from office for official misconduct or neglect of duty.

(4) To require district attorneys to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishment for violations of the laws of the state in respect to the assessment and taxation of property, in their respective counties.

(5) To collect annually from all town, city, village, county and other public officers information as to the assessment of property, and such other information as may be needful in the work of the department, in such form and upon such blanks as the department shall prescribe; and it shall be the duty of all public officers so called upon to fill out properly and return promptly to the department all blanks so transmitted. To examine all town, village, city and county records for such purposes as are deemed needful by the department. To publish annually the information collected, with such compilations, analyses or recommendations as may be deemed needful.

(6) In its discretion to inspect and examine or cause an inspection and examination of the records of any town, city, village or county officer whenever such officer shall have failed or neglected to return properly the information as required by sub. (5), within the time set by the department of taxation. Upon the completion of such inspection and examination the department of taxation shall transmit to the clerk of the town, city, village or county a statement of the expenses incurred by the department of taxation to secure the necessary information. Duplicates of such statements shall be filed in the office of the department of administration and state treasurer. Within 60 days after the receipt of the above statement, the same shall be audited, as other claims of towns, cities, villages and counties are audited, and shall be paid into the state treasury, in default of which the same shall become a special charge against such town, city, village or county and be included in the next apportionment or certification of state taxes and charges, and collected with interest at the rate of 10 per cent per annum from the date such statements were certified by the department, as other special charges are certified and collected.

(7) The officers responsible for the furnishing of the information collected pursuant

to this section shall be jointly and severally liable for any loss the town, city, village or county may suffer through their delinquency; and no payment shall be made them for salary, or on any other accounts, until the cost of such inspection and examination as provided above shall have been paid into the town, city, village or county treasury.

(8) To require individuals, partnerships, companies, associations and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and all other facts which may be needful to enable the department to ascertain the value and the relative burdens borne by all kinds of property in the state.

(9) To summon witnesses to appear and give testimony, and to produce records, books, papers and documents relating to any matter which the department shall have authority to investigate or determine.

(10) To cause the deposition of witnesses residing within or without the state or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions pending in the circuit court, in any matter which the department shall have authority to investigate or determine.

(11) To visit the counties in the state, unless prevented by other necessary official duties, for the investigation of the work and the methods adopted by local assessors, boards of review, supervisors of assessments and county boards, in the assessment, equalization and taxation of real and personal property.

(12) To carefully examine into all cases where evasion or violation of the laws for assessment and taxation of property is alleged, complained of or discovered, and to ascertain wherein existing laws are defective or are improperly or negligently administered.

(13) To investigate the tax systems of other states and countries and to formulate and recommend such legislation as may be deemed expedient to prevent evasion of assessment and tax laws and to secure just and equal taxation and improvement in the system of taxation in the state.

(15) To consult and confer with the governor of the state upon the subject of taxation, the administration of the laws in relation thereto and the progress of the work of the department, and to furnish the governor from time to time such assistance and information as he may require.

(16) To transmit to the governor and to each member of the legislature, 30 days before the meeting of the legislature, the report of the department showing all the taxable property in the state and the value of the same in tabulated form with recommendations for improvement in the system of taxation in the state, together with such measures as may be formulated for the consideration of the legislature.

(17) To disseminate from time to time, in such manner as shall best be calculated to attract general public attention, facts and data concerning public expenditures, sources of revenue, responsibility for levies, the value and relative tax burdens borne by different classes of property, and other useful and valuable information concerning the subject of taxation and public finance.

(18) To exercise and perform such further powers and duties as may be granted to or imposed upon the department by law.

(20) To investigate all delinquent personal property, and income taxes and surtaxes in the several counties of the state and the possibility of the collection thereof and to require taxing officials, including town treasurers, county treasurers, sheriffs and district attorneys of their respective counties to institute proceedings, actions and prosecutions for the collection of such delinquent taxes to the end that the amount of such delinquent taxes shall be reduced to the minimum. In carrying out the provisions of this subsection the department of taxation is empowered to examine or cause to be examined by any agent, employe or representative designated by it for that purpose, any books, papers, records or memoranda of any corporation, copartnership or individual, bearing upon the matter of the collection of any such delinquent taxes, and may require the attendance of the officials of any corporation, or of any other person having knowledge in the premises, and may take testimony and require proof material for their information upon any matter that they may deem of value for the purpose of enforcing the payment of such delinquent taxes. Said department of taxation is further empowered to do and perform such other duties and adopt such other procedure as may be necessary to carry out the provisions of this subsection, and to direct that proceedings, actions and prosecutions be instituted to enforce the laws relating to the collection of such delinquent taxes of every kind and nature; to this end the legal department of the state shall, upon the request of the department of taxation, conduct such actions, proceedings, or prosecutions, or assist the local town, city, village or county officials therein.

(21) The department of taxation shall submit in their biennial report the amount of income tax collected for each county in the state, and shall designate the several general classes of property from which the incomes were received, the cost to the state and each county for the administration of the law, and all such facts as shall be required to give a definite understanding of the financial operations of the law.

(22) To appear by its counsel and represent the state in all matters before the board of tax appeals. Except as provided in ch. 72 and in s. 76.08 (1), the attorney general shall appear for the department in all courts, but with the consent of the attorney general a member of the staff of the department may appear for the department.

(23) (a) The commissioner of taxation shall succeed to all powers and duties imposed by law, immediately prior to the taking effect (1949) of this subsection, upon the state treasurer, the state supervisor of inspectors and the state inspection bureau. The commissioner shall perform such duties through the division of petroleum products which shall also perform such other duties as the commissioner may require or as may be prescribed by law.

(b) The commissioner shall have power and authority to make and enforce such necessary rules and regulations, not inconsistent with law, as he may deem necessary for the discharge of all the powers and duties of the division of petroleum products. He shall also have authority to prescribe forms for all applications, notices and reports required by law to be made to the division or which are necessary in its work.

(c) The commissioner shall include in his biennial report to the governor a summary of the activities of the division of petroleum products during the biennium. He shall also make such special reports upon any phase of the work of the division as may be called for by the governor, the legislature or either house thereof.

(24) To administer and enforce s. 66.054 and chs. 139 and 176.

(25) To settle and dispose of tax cases or issues pending before the board of tax appeals when, in the judgment of the department of taxation, such action is warranted in the best interests of the state; and, with the approval of the attorney general, to settle and dispose of tax cases or issues pending in the courts.

(26) To enter into reciprocal agreements with the appropriate official in any other state having a similar law relating to information obtained from returns as authorized by s. 71.11 (44) (bm).

**History:** 1961 c. 621; 1963 c. 279; 1965 c. 163 s. 77a; 1965 c. 433; 1967 c. 26, 109.

The department can contest the constitutionality of a tax exemption on the ground that it violates the equal protection of the laws clause of the federal constitution. *Fullton Foundation v. Dept. of Taxation*, 13 W (2d) 1, 108 NW (2d) 312.

**73.035 Law enforcement.** The commissioner of taxation and such of his employes as are authorized to enforce s. 66.054 and chs. 139 and 176 shall enforce the provisions of ss. 944.30, 944.31, 944.33, 944.34, 945.02 (2), 945.03 and 945.04 and shall be invested with the powers conferred by law upon sheriffs and municipal police officers in the performance of such duties. Nothing herein shall deprive or relieve sheriffs, constables and other local police officers of the power and duty to enforce the provisions of said sections, and such officers shall likewise enforce the provisions of said sections.

**73.04 Hearings, witnesses.** (1) **CONTEMPTS.** In case any person shall unlawfully fail to obey any subpoena to appear before said department or before the board of tax appeals, or shall unlawfully refuse to testify, such failure or refusal shall be reported to the attorney general, who shall thereupon institute contempt proceedings against such person.

(2) **FEEES.** Officers who serve subpoenas, and witnesses attending hearings at the instance of the department, shall receive like compensation as officers and witnesses in the circuit court. Such compensation shall be charged to the proper appropriation for the department of taxation.

(3) **SPECIAL INVESTIGATIONS.** The department of taxation may appoint any employe to act for it to investigate and make report to the department upon any matter upon which the department is required to act, and such employe shall have authority to hold hearings, administer oaths, take testimony and perform all other duties necessary to bring such matter before the department for final adjudication and determination.

**73.05 Assessment districts; assessors; supervisors; duties.** (1) The state shall be divided into income assessment districts, property assessment districts, by the department of taxation, but in no instance shall a county be divided.

(2) There shall be selected and appointed by the department of taxation an assessor of incomes for each income assessment district and a supervisor of assessments for each

property assessment district in the state. Wherever it may be practicable in the interests of economy and efficiency, the department of taxation may appoint the same person to execute the duties of assessor of incomes and supervisor of assessments in one district. Each assessor or supervisor shall be a citizen and an elector of this state, but need not be a resident of the district in which he is appointed to serve; provided, that so far as practicable, preference shall be given in making such appointments to residents of the districts.

(3) The department of taxation may in its discretion transfer any assessor of incomes or supervisor of assessments from one district to another.

(4) Each assessor of incomes and supervisor of assessments shall be under the complete direction and control of the department of taxation, and shall make such reports to the department, and to such other bodies and perform such other duties, as the department shall direct. The supervisor of assessments shall meet with the equalization committee of the county board not later than the first Monday in October in each year pursuant to 5 days' notice by the county clerk of the time and place of such meeting mailed to the clerk of each town, city and village in such county for the purpose of considering his taxation district values required for the purpose of determining the valuations pursuant to section 70.61 before referring such values to the department of taxation for its approval for submission to the county board.

**73.06 Supervision of assessments; supervisors; appointments and duties.** (1) The department of taxation, through its employes called supervisors of assessments and deputy supervisors of assessments, shall have full and complete supervision and direction of the work of the local assessors. It shall annually, at a time which in its judgment is best calculated to obtain the ends sought, call a meeting of all such local assessors for each county for conference and instruction relative to their duties in the valuation and assessment of property. The department of taxation may also call a similar meeting of local clerks and such other officials as seems advisable for conference and instruction relative to their duties in the valuation and assessment of property. Each such official upon notice by mail from the supervisor shall attend such meeting, and shall receive therefor travel expenses from his residence to the county seat and return and such compensation and mileage as the board may establish, but not less than \$5 per day and 6 cents per mile; except that in counties having a population of 500,000 or more, no compensation, travel expense or mileage shall be allowed. Such compensation shall be paid out of the treasury of the county in which such local official resides upon the certificate of the supervisor of assessments showing such attendance and travel, in like manner as certificates of witnesses and jurors are paid.

(2) The department of taxation, its supervisors and deputy supervisors of assessments shall have access to all public records, books, papers and offices throughout each district and shall make a full and complete examination of them and investigate all other matters and subjects relative to the assessment and taxation of general property therein.

(3) The department of taxation, its supervisors and deputy supervisors of assessments shall examine and test the work of assessors during the progress of their assessments and ascertain whether any of them is assessing property at other than full value or is omitting property subject to taxation from the roll. The department and such supervisors and deputy supervisors shall have the rights and powers of a local assessor for the examination of persons and property and for the discovery of property subject to taxation. If any property has been omitted or not assessed according to law, they shall bring the same to the attention of the local assessor of the proper district and if such local assessor shall neglect or refuse to correct the assessment they shall report the fact to the board of review.

(4) Whenever the department of taxation ascertains, or has good reason to believe, that any assessor is guilty of a violation of law, it is authorized to make complaint to the presiding judge of the circuit court for the removal of such assessor. The district attorney shall attend and prosecute such proceedings for removal.

(5) The department of taxation through its supervisor of assessments shall make a report to the county board of each county showing in detail the work of local assessors in their several districts, the failure, if any, of such assessors to comply with the law, the relative assessed and full value of property in each taxation-district, and all such information and statistics as may be obtained which will be of assistance to the county board in determining the relative value of all taxable property in each taxation-district in the county. Such report shall be filed with the county clerk at least 15 days before the annual meeting of the county board. The county clerk shall cause to be printed not less than 200 copies of such report, one of which shall be delivered immediately by the county clerk to each member of the county board and a sufficient number of copies not to exceed 5 to each



municipality requesting the same by resolution of the governing body for the use of the officials of the municipality. Not less than 6 copies of such printed report, together with all statistics accompanying the same, shall be filed with the department of taxation.

(7) The department of taxation shall call a meeting of the supervisors of assessments at the capitol at a specified time in each year, for a conference on the subjects of taxation and the administration of the laws, and for the instruction of such officers in their duties.

**Cross Reference:** See 17.14 on removal of assessors from office.

**73.07 Assessors and supervisors; offices, supplies, expenses.** (1) The county board of any county when requested to do so by the department of taxation or the assessor of incomes or supervisor of assessments shall provide suitable rooms in the courthouse or other convenient building at the county seat, for the use of such assessor or supervisor together with all furniture, fixtures, office equipment and office supplies necessary to properly conduct the duties of such office and necessary for the collection of income taxes of persons other than corporations by the department of taxation as provided by law. Such expense shall be paid by the county furnishing the same unless such county is a part of an income assessment district or a property assessment district, in which event the expense of the office of the supervisor of assessments including rental of office space at not to exceed \$3.50 per square foot per annum together with the actual costs of heat, light and janitor service connected therewith shall be borne by all the counties in the district, each county to pay at the ratio that the county assessment of such county bears to the total county assessment of all the counties in the district, and the expense of the office of the assessor of incomes, including rental of office space at not to exceed \$3.50 per square foot per annum together with the actual cost of heat, light and janitor service connected therewith, and of the collection of income tax shall be borne by all the counties in the district, each county to pay at the ratio that the total normal income tax paid during the preceding calendar year by residents of the county bears to the total normal income tax paid during the preceding calendar year by residents of the district. Any county may agree with the department of taxation to pay the rent, heat, light and janitor service of offices outside the courthouse in consideration of the offices being located in such county. If any county fails or refuses to furnish such quarters, equipment and supplies for the use of the assessor of incomes or supervisor of assessments as herein provided, the department of taxation may procure the same at the expense of the counties responsible therefor. The rent of such office and the cost of such equipment and supplies, if procured by the department of taxation, shall in the first instance, be paid out of the state treasury as other claims against the state are audited and paid, and the department of taxation shall certify to the department of administration the part of such amount chargeable against each county and these amounts shall be included in the next apportionment and certification of state taxes and charges and collected from such counties as other special charges are certified and collected. In case any county which is a part of an income or property assessment district provided for in s. 73.05 has, at the request of the department of taxation or assessor of incomes or supervisor of assessments, provided such district with office space and the heat, light and janitor service connected therewith, furniture, fixtures, office equipment or office supplies, and any other county in the district fails or refuses to pay its proper proportion thereof the amount shall be paid by the department of taxation and certified to the department of administration to be certified as a special charge against such county as provided above.

(2) The county board of any county shall also provide rooms as provided in sub. (1) for the use of the board of tax appeals upon the request of the chairman of said board. Hearings of said board may also be held in the office of any assessor of incomes or supervisor of assessments when the chairman of the board deems it advisable.

**History:** 1965 c. 246.

**73.08 Review of assessment practices.** The department through its supervisors of assessments shall each 6 years, or oftener if the work permits and in its judgment is desirable, make a thorough review of assessment practices in each town, city and village in each county in the respective assessment districts. The review shall include the gathering of information on inequities in assessment as between classes of property and within each class of property. The report of the supervisor shall include recommendations warranted by the evidence and shall be made public.