

CHAPTER 73

TAX APPEALS COMMISSION AND DEPARTMENT OF REVENUE

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73.01 Tax appeals commission. (1) DEFINITION. In this section "commission" means the tax appeals commission.

(2) EMPLOYES. The department of administration may appoint, under the classified service, such employes for the commission as are necessary.

(3) HEARINGS AND REPORTS. (a) The time and place of meetings and hearings of the commission shall be designated by the chairman. Rooms for hearings outside the city of Madison shall be provided under s. 73.07.

(b) The commission shall provide for the publication of such of its reports, decisions and opinions as are of public interest in such form as it deems best adapted for public convenience and use. Such publications shall constitute the official reports of the commission and shall be made available for sale and distribution to the public under ch. 35. In addition to its annual report under s. 15.06 (7), the commission shall make such further reports to the governor or the legislature as they request.

(4) POWERS AND DUTIES DEFINED. (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and ss. 70.38 (4) (a), 70.64, 70.995 (8), 71.12, 72.86 (4), 76.38 (12) (a), 76.39 (4) (c), 76.48 (6), 77.59 (6) (b), 78.22, 139.03 (4), 139.315 and 139.78. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 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 commission 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 stipula-

tion filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

NOTE: Par. (a) is shown as affected by chapters 20 and 317, laws of 1981. Chapter 317 substitutes "139.315" for "139.31 (2)", eff. 7-1-83.

(b) Any matter required to be heard by the commission may be heard by any member of the commission or its hearing examiner and reported to the commission, and hearings of matters pending before it shall be assigned to members of the commission or its hearing examiner by the chairperson. Unless a majority of the commission decides that the full commission should decide a case, cases shall be decided by a panel of 3 members assigned by the chairperson prior to the hearing. If the parties have agreed to an oral decision, the member or members conducting the hearing may render an oral decision. Hearings shall be open to the public and all proceedings shall be conducted in accordance with rules of practice and procedure prescribed by the commission.

(bn) The parties to any matter required to be heard and decided by the commission, except appeals arising under s. 70.64 or ch. 76, may consent in writing that the chairman or any member of the commission 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 commission 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

commission. The commission 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 commission 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 commission requests that the proceedings held with respect thereto be reported, and the commission 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 commission 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 commission shall not be deemed to be waived.

(d) Any member of the commission or any employe of the commission, designated in writing for the purpose by the chairman, may administer oaths, and any member of the commission 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 commission 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 commission, 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 commission 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 commission 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 commission may issue an opinion in writing in addition to its findings of fact and decision. The decision or order of the commission shall become final and shall be binding upon the petitioner and upon the department of revenue for that case unless an appeal is taken from the decision or order of the commission under s. 73.015. If the commission construes a statute adversely to the contention of the department of revenue:

1. Except as provided in subd. 2, the department shall be deemed to acquiesce in the construction so adopted unless the department seeks review of the order or decision of the commission so construing the statute. The construction so acquiesced in shall thereafter be followed by the department.

2. The department may choose not to appeal and to nonacquiesce in the decision or order by sending a notice of nonacquiescence to the clerk of the commission, to the revisor of statutes for publication in the Wisconsin administrative register and to the taxpayer or the taxpayer's representative before the time expires for seeking a review of the decision or order under s. 73.015. The effect of this action is that, although the decision or order is binding on the parties for the instant case, the commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the department in other cases.

(f) All reports, findings, decisions and opinions of the commission, and all evidence received by the commission, 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 commission, may be withdrawn from the custody of the commission in such manner and upon such terms as the commission may, in its discretion, prescribe.

(g) The commission shall, in manufacturing property redeterminations under s. 70.995 for which a refund is due a taxpayer because of a reduction in value by the commission, include in its determination a finding of whether the reduction was due to false or incomplete information supplied by the taxpayer.

(5) APPEALS TO COMMISSION. (a) Any person who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 15 days of the determination

of the state board of assessors under s. 70.995 (8) (a) or, in all other cases, within 60 days after the redetermination but not thereafter, file a petition for review of the action of the department and 4 copies of the petition with the clerk of the commission. The clerk of the commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a \$5 filing fee which the commission shall deposit in the general fund. Within 30 days after such transmission the department, except for petitions objecting to manufacturing property assessments, shall file an original and 3 copies of an answer to the petition with the clerk of the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the 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 commission under s. 76.38 (12) (a), 76.39 (4) (c) or 76.48 may file a petition with the commission 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 is 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 last day for filing.

(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 commission by rule designates. After an answer is filed as provided in par. (a), the matter shall be regarded as at issue and the commission shall set it for hearing. At all times while said appeal is pending before the commission, the petitioner shall keep the commission informed as to his residence. Upon his failure to do so, the mailing by the commission 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 commission.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317.

A subpoena duces tecum need not show on its face the factual basis for its issuance in order to prove lawful purpose and relevancy. The commission properly took testimony even though it was deciding a question of law. *Neu's Supply Line v. Dept. of Revenue*, 52 W (2d) 386, 190 NW (2d) 213.

The courts, under 269.56, have concurrent jurisdiction with the tax appeals commission, but the trial court, under the primary-jurisdiction rule, may hold that the commission

should make the initial determination. *Sawejka v. Morgan*, 56 W (2d) 70, 201 NW (2d) 528.

Practice before the Wisconsin tax appeals commission. *Smrz*, 1976 WBB 3.

Procedures before the Wisconsin tax appeals commission. *Boykoff*, WBB October 1981.

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

(2) Any adverse determination of the commission is subject to review in the manner provided in ch. 227. If the circuit court construes a statute adversely to the contention of the department of revenue, the department shall be deemed to acquiesce in the construction so adopted unless an appeal to the court of appeals is taken, and the construction so acquiesced in shall thereafter be followed by the department.

History: 1977 c. 29, 187.

73.02 Distribution of money; income tax coordinator. (1) The department of revenue shall, on the certification of the program agencies that all requirements of the applicable laws have been complied with, perform the mechanical operation of the distribution of all moneys which the state distributes to political subdivisions.

(2) The secretary shall designate or appoint under the classified service, within the department of revenue, an income tax coordinator, whose duties shall include the setting up and operation of a coordination 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 coordination program with the internal revenue service.

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

(2a) To prepare, have published and distribute to each county having a county assessor system under s. 70.99 and to each town, city and village in the state for the use of assessors, assessment personnel and the public detailed assessment manuals discussing and illustrating accepted assessment methods, techniques and practices with a view to more nearly uniform and more consistent assessments of property at the local level. The 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 manual shall incorporate standards for the assessment of all types of renewable energy resource systems used in this state as soon as such systems are used in sufficient numbers and sufficient data exists to allow the formulation of valid guidelines. The cost of the development, preparation, publication and distribution of the manual and of revisions and amendments to it shall be borne by the assessment districts and requesters at an individual volume cost or a subscription cost as determined by the department. All receipts shall be credited to the appropriation under s. 20.566 (2) (hi). The department shall, on the 4th Monday in August, certify past-due accounts and include them in the next apportionment of state special charges to counties and municipalities under s. 70.60. The department may provide free assessment manuals to other state agencies or exchange them at no cost with agencies of other states or of the federal government for similar information or publications.

(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 revenue. Upon the completion of such inspection and examination the department of revenue shall transmit to the clerk of the town, city, village or county a statement of the expenses incurred by the department of revenue 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 year 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, county assessors, boards of review, supervisors of assessments and county boards, in the assessment, equalization and taxation of property. The department of revenue and its district supervisory staff shall assist the county assessor in carrying out his duties.

(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 reve-

nue, 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.

(19) To annually publish the findings of any assessment ratio studies conducted.

(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 revenue 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 revenue 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 department of justice shall, upon the request of the department of revenue, conduct such actions, proceedings, or prosecutions, or assist the local town, city, village or county officials therein.

(21) The department of revenue 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 tax appeals commission. Except as provided in ch. 72 and in

s. 76.08 (1), the department of justice shall provide legal counsel to 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.

(24) To administer and enforce chs. 125 and 139.

(25) To settle and dispose of tax cases or issues pending before the tax appeals commission when, in the judgment of the department of revenue, 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).

(27) To write off from the records of the department income, franchise, sales, use, withholding, motor fuel, gift, beverage and cigarette tax liabilities, following a determination by the secretary of revenue that they are not collectible, as hereinafter provided:

(a) When discharged under the federal bankruptcy act.

(b) When the amount is \$10 or less, at any time after 3 years of delinquency.

(c) Accounts of deceased persons at any time 3 years after the closing of their estates or 3 years after their demise if there is no estate to probate.

(d) Accounts of dissolved corporations at any time 3 years after their dissolution or forfeiture of rights.

(e) When delinquent 10 years or more.

(28) To enter into contracts to collect delinquent Wisconsin taxes from nonresidents. The department shall allocate a portion of the amounts collected under ch. 78 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the transportation fund under s. 25.40. The department shall allocate a portion of the amount collected under chs. 71, 72, 77 and 139 through those contracts to the appropriation under s. 20.566 (1) (hm) to pay contract and court costs. The department shall allocate the remainder of those collections to the general fund.

History: 1971 c. 40, 215; 1973 c. 90; 1975 c. 39; 1977 c. 143; 1977 c. 196 s. 130 (7); 1977 c. 313; 1979 c. 34; 1979 c. 110 s. 60 (13); 1979 c. 221, 350; 1981 c. 20; 1981 c. 79 s. 18.

Department's construction of tax law in official technical information memorandums estopped department from collecting tax in this case. *Dept. of Revenue v. Family Hospital*, 105 W (2d) 250, 313 NW (2d) 828 (1982).

73.04 Hearings, witnesses. (1) CONTEMPTS. If any person unlawfully fails to obey any subpoena to appear before the department of revenue or before the tax appeals commission, or unlawfully refuses to testify, such failure or refusal shall be reported to the attorney general and the department of justice shall institute contempt proceedings against such person.

(2) **FEEs.** 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 revenue.

(3) **SPECIAL INVESTIGATIONS.** The department of revenue 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.

See note to 71.11, citing *State v. Beno*, 99 W (2d) 77, 298 NW (2d) 405 (Ct. App. 1980).

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

(2) The department of revenue shall select and appoint a supervisor of assessments for each property assessment district in the state. Each supervisor shall be a citizen and an elector of this state, but need not be a resident of the district in which appointed to serve. So far as practicable, preference shall be given in making such appointments to residents of the districts.

(3) The department may transfer any supervisor of assessments from one district to another.

History: 1973 c. 90; 1977 c. 29 s. 1647 (15); 1977 c. 143, 272; 1981 c. 20.

73.06 Supervision of assessments; supervisors; appointments and duties. (1)

The department of revenue, through its supervisors of assessments and deputy supervisors of assessments, shall have complete supervision and direction of the work of the local assessors. It shall annually, or more often if deemed necessary at a time which in its judgment is best calculated to obtain the ends sought, call a meeting of all local assessors for conference and instruction relative to their duties in the valuation and assessment of property. The department of revenue may also call a similar meeting of local clerks and other officials for conference

and instruction relative to their duties in the valuation and assessment of property. Each official upon notice by mail from the supervisor shall attend the meeting, and shall receive travel expenses from his or her residence to the meeting site and return and the compensation and mileage that the board establishes, 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. This compensation shall be paid out of the treasury of the county in which the local official resides upon the certificate of the supervisor of assessments showing attendance and travel, as certificates of witnesses and jurors are paid.

(2) The department of revenue, 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 revenue, 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) If the department of revenue ascertains, or has good reason to believe, that any assessor is guilty of a violation of law, it may make a complaint to the circuit court for the removal of the assessor. The district attorney shall attend and prosecute the proceedings for removal.

(5) The department of revenue 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 revenue.

(7) The department of revenue 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.

(8) For purposes of this section "local assessor" includes the county assessors under s. 70.99.

History: 1973 c. 90; 1977 c. 449; 1981 c. 20

Cross Reference: See 17.14 on removal of assessors from office

73.07 District offices, supplies, expenses. (1) The county board of any county when requested to do so by the department of revenue shall provide suitable rooms in the courthouse or other convenient building at the county seat, for the use of the department's district income tax office 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 revenue as provided by law. Such expense shall be paid by the county furnishing the same unless the county is a part of an income assessment district. The expense of the district income tax office, including rental of office space at not to exceed \$3.50 per square foot per year 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 revenue 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 department's district income tax

office as provided in this subsection, the department 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, 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 revenue 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 assessment district provided for in s. 73.05 has, at the request of the department of revenue, 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 the amount shall be paid by the department of revenue and certified to the department of administration to be certified as a special charge against such county as provided above.

(2) Office furniture and equipment furnished to supervisors of assessments prior to January 1, 1974, shall continue to be furnished until no longer required by them.

(3) The county board of any county shall also provide rooms as provided in sub. (1) for the use of the tax appeals commission upon the request of the chairman of the commission. Hearings of the commission may also be held in the department's district income tax office when the chairman of the commission deems it advisable.

History: 1971 c. 42; 1973 c. 90; 1977 c. 143; 1979 c. 110 s. 60 (13).

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 taxation district in each county. 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. If the department is satisfied that the assessment by the county assessor is at full value it may adopt such value as the state's full value for equalization purposes.

History: 1977 c. 29; 1981 c. 20, 328.

NOTE: This section is shown as affected by ch. 328, laws of 1981, eff. 7-1-83, when sub. (1) is renumbered 73.08 and sub. (2) is repealed. Until then, sub. (2) reads:

"(2) All costs of the department of revenue in connection with the review of assessment practices under this section shall be borne by the taxation district. These receipts shall be credited to the appropriation under s. 20.566 (2) (b). Past due accounts shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government."

73.09 Assessor certification. (1) LOCAL ASSESSMENT PERSONNEL. The department of revenue shall establish by rule the level of certification under sub. (3), the continuing education requirements under sub. (4), examinations under sub. (5), and the requirements for and responsibilities associated with temporary certification under sub. (6) for all assessors and assessment personnel of each local unit of government and for county assessor systems under s. 70.99.

(2) DEPARTMENT OF REVENUE ASSESSMENT PERSONNEL. The requirements established for local assessment personnel under sub. (1) shall also apply to department of revenue assessment personnel commencing on January 1, 1981. The division of personnel in the department of employment relations with the assistance of the department of revenue shall determine the position classifications for which certification shall apply within the department of revenue. The first level of certification shall be obtained within 100 days of the employe's appointment. The department of revenue in consultation with the division of personnel in the department of employment relations shall establish requirements for obtaining higher levels of assessor certification.

(3) LEVELS OF CERTIFICATION. The levels of certification for assessors and assessment personnel shall be commensurate with the degree of complexity of the various classes of property within each taxation district.

(4) RECERTIFICATION. (a) All certifications issued prior to January 1, 1981, shall be valid for 10 years from the date of issuance. All certifications issued on or after January 1, 1981, shall expire on the 6th June 1 following the date of issuance.

(b) Persons may be recertified by passing an examination as provided in sub. (5) or by attendance during the previous 5 years at annual meetings called by the department of revenue under s. 73.06 (1) and by meeting continuing education requirements determined by the department of revenue.

(c) Recertification is contingent upon submission of a notarized application for renewal by March 31 of the year of renewal attesting to the completion of the requirements specified in par. (b).

(5) EXAMINATIONS. As provided in subs. (1) and (2), the department of revenue, assisted by

the division of personnel in the department of employment relations, shall prepare and administer examinations for each level of certification. Certification shall be granted to each person who passes the examination for that level.

(6) **TEMPORARY CERTIFICATION.** As provided in subs. (1) and (2), the department of revenue shall promulgate rules for the temporary certification of the first level of certification and designate the functions that may be performed by such persons. An individual may be granted one temporary certification, valid until the results of the next certification examination are issued, but not for more than 100 days.

(7) **REVOCATION OF CERTIFICATION.** (a) The secretary of revenue or a designee may revoke the certification of any assessor, assessment personnel or expert appraiser for the practice of any fraud or deceit in obtaining certification, or any negligence, incompetence or misconduct.

(b) Charges of fraud, deceit, negligence, incompetence or misconduct may be made against any assessor, assessment personnel or expert appraiser by the department of revenue. Such charges shall be in writing, stating the specific acts, and submitted to the secretary of revenue. All charges shall be heard by the secretary within 3 months after their filing.

(c) The time and place for such hearing shall be fixed by the secretary of revenue and a copy of the charges, together with a notice of the time and place of hearing, shall be given by personal service or by registered letter with return receipt requested, mailed to the last-known address of such expert appraiser, at least 30 days before the hearing. The expert appraiser so charged shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

(d) If, after such hearing, the secretary of revenue determines that there is just cause for revocation, he shall revoke the certificate of registration of such expert appraiser and notify him to that effect. The expert appraiser shall return his certificate to the secretary of revenue immediately on receipt of such notice. The action of the secretary of revenue may be reviewed under ch. 227.

(e) The secretary of revenue, for reasons sufficient, may reinstate a certificate of registration that has been revoked, after one year upon formal application for reinstatement.

History: 1979 c. 221; 1981 c. 20 s. 1039.

73.10 Municipal auditing. (1) In this section "department" means the department of revenue.

(2) The department shall collect annually from all town, city, village, county and other public officers, information as to the collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and such other information as is needed by the department, in such form and upon such blanks as the department prescribes; and all public officers so called upon shall fill out properly and return promptly to the department all blanks so transmitted. The department shall examine all town, village, city, county and other public records for such purposes as the department deems necessary. The department shall publish annually the information collected, with such compilations, analyses or recommendations as are deemed necessary. The department shall disseminate information concerning local government accounting, auditing and fiscal matters.

(3) The department may inspect and examine or cause an inspection and examination of the records of any town, city, village, county or other public officer whenever such officer fails or neglects to return properly the information required by sub. (2) within the time set by the department.

(4) The officers responsible for the furnishing of information collected pursuant to this section shall be jointly and severally liable for any loss the town, city, village, county or other local public body, board, commission or agency suffers through their delinquency; and no payment shall be made them for salary, or on any other accounts, until the total amount of charges for such inspection and examination as provided in sub. (6) has been paid into the treasury of the regular county or other local public body, board, commission or agency.

(5) The department shall inquire into the system of accounting of public funds in use by towns, villages, cities, counties, vocational, technical and adult education districts and all other local public bodies, boards, commissions, departments or agencies except school districts and boards of education; devise, prescribe and at the request of any town, village, city, county, vocational, technical and adult education districts or other local public body, board, commission, department or agency except school districts and boards of education, install a system of accounts which is as nearly uniform as practicable and when so installed the system shall be retained in use and at the request of school districts and boards of education, install accounting systems which conform to the uniform financial accounting system prescribed by s. 115.28 (13); and audit the books of the town, village, city, county, school district, board of

education, vocational, technical and adult education districts or other local public body, board, commission, department or agency, or any municipal electric utility upon the request of the governing board, council, commission or body thereof, or upon its own motion or under a contractual arrangement with a state agency which has statutory authority and responsibility for auditing specified activities of towns, villages, cities, counties, school districts, boards of education, vocational, technical and adult education districts, or other local public bodies, boards, commissions, departments or agencies and has sufficient funds to pay the department amounts specified by the contract. Nothing in this subsection may be construed to be exclusive and prevent a local governing body from employing an auditor of its own choice duly licensed under ch. 442.

(6) The department shall establish a scale of charges for system installations, audits, inspections and other services rendered by the department in connection with financial records or procedures of towns, villages, cities, counties, school districts, boards of education, vocational, technical and adult education districts and all other local public bodies, boards, commissions, departments or agencies. Upon the completion of such work or at the department's discretion, during work in progress, the department shall transmit to the clerk of the town, village, city, county, school district, board of education, vocational, technical and adult education districts or other local public body, board, commission, department or agency, or any state agency contracting for audit services, a statement of such charges. Duplicates of the statements shall be filed in the offices of the state treasurer. Within 60 days after the receipt of the above statement of charges, the same shall be audited as other claims against towns, villages, cities, counties, school districts, boards of education, vocational, technical and adult education districts and other local public bodies, boards, commissions, de-

partments or agencies are audited, and shall be paid into the state treasury and credited to the appropriation under s. 20.566 (2) (g). Past due accounts of towns, villages, cities, counties, school districts, boards of education, vocational, technical and adult education districts and all other local public bodies, boards, commissions, departments or agencies shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(7) The department shall assist local units of government to install improved budgetary methods and upon request transmit proposed basic budget forms to each local unit of government.

(8) The municipal auditing functions of the department shall be performed so as to make auditing services under sub. (5) available to local units of government as quickly as possible.

(9) The department shall devise a system of cost accounting as nearly uniform as possible for all county infirmaries, which shall include an appraisal of present buildings and equipment. Such system shall include an annual charge of 2% of the original cost of new construction or purchase, or of the appraised value of existing infirmary structures and equipment. If the infirmary or any of its equipment is replaced, any net cost of replacement in excess of the original cost shall be subject to a similar charge. When the amounts charged under this subsection equal such cost, no further charge shall be recognized in the determination of per capita costs. The cost thereof shall be paid from the appropriation made by s. 20.566 (2) (a). The department of health and social services and the Wisconsin county boards association shall provide such assistance as is required by the department.

History: 1971 c. 108 ss. 1, 4, 6; 1971 c. 125 ss. 36, 394; 1971 c. 154 s. 1; 1971 c. 211 ss. 85, 86; 1973 c. 90; 1973 c. 243 s. 82; 1975 c. 224; 1977 c. 29, 418; 1981 c. 20, 237.