



TOM TIFFANY

STATE SENATOR • 12TH SENATE DISTRICT

Testimony by State Senator Tom Tiffany on Senate Bill 253 September 18, 2013

Madam Chair & Fellow Committee Members:

Thank you for hearing Senate Bill 253 (SB 253) today. The bill before us today is mainly a technical piece of legislation that I agreed to author at the request of the Wisconsin Department of Revenue (DOR). The changes contained in this legislation are taxpayer friendly and also cleans up outdated statutes. Mr. Mike Wagner from the DOR is here and I know that he is happy to answer any questions members might have regarding this legislation.

For taxpayers, SB 253 will raise the underpayment interest threshold (UPI). In the recent budget bill, 2013 Wisconsin Act 20, the Legislature reduced the amount of interest rate that DOR pays taxpayers from 9% to 3% but did not lower the interest rates that taxpayers pay to DOR. UPI, unlike delinquent debt or nonpayment, often results from taxpayers being unaware of the \$200 threshold. The provision to raise the UPI threshold from \$200 to \$500 is going to save taxpayers with relatively small tax debts from paying interest on the amounts that they owe.

SB 253 will also eliminate Form-8. The DOR was able to work with the IRS to use existing data sharing to enable efficiency and eliminate the need for Form-8 completely. The result is fewer burdens on taxpayers and more efficient operations at DOR.

This legislation will also allow manufacturing assessment appeals to be *postmarked* within 60 days instead of *received* by DOR within 60 days. The Tax Appeals Commission (TAC) recently ruled that a postmark was not enough for an appeal to be considered timely. This bill makes the clarification in statute that postmarks are sufficient for timely filing, which is supported by DOR and reflects longstanding practice prior to the TAC's restrictive January 2013 ruling.

As far as cleaning up outdated statutes, it eliminates from statute the Woodland Tax Credit that ceased enrolling property nearly 25 years ago, but statutes still reference it. It also eliminates the old gallon and mileage limits on bulk tanks that are no longer reflective of modern farm cooperatives' business practices or needs and is done without any fiscal or administrative effect.



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Currently, the DOR publishes property assessment appeal-related information online and has done so for years. However, statutes still refer to pre-Internet demands for hundreds of mailing requests to taxation districts (usually city hall). DOR makes appeal information available online to both taxpayers and local government. Current law requiring a mailed notice from the assessor to taxpayers that their property assessment has changed is not affected by this provision.

Finally, the bill provides greater clarity to taxpayers by cleaning-up undefined and potentially unclear portions of statutes. Under the Manufacturing and Agriculture Credit as the statutes are currently written, farmers have to use definitions meant for manufacturers. This provision provides a definition for a currently undefined term, "agriculture property factor." This technical change does not affect what property is considered "agricultural" under current law and has no fiscal effect.

The Wisconsin Lottery runs two types of games: limited-term games like scratch-off tickets and long-running games like Power Ball. While the deadline to claim a prize has not changed and will not change in this bill, the statutes describing the prize claim period were potentially confusing. This bill provides clarity.

In closing, the taxpayers benefit with SB 253 because burdens are reduced and clarity is promoted. Thank you all again for hearing my testimony, at this time, I will turn things over to Mr. Wagner.



Scott Walker
Governor

Richard G. Chandler
Secretary of Revenue

September 18, 2013

DOR Testimony in Support of Senate Bill 253

Senate Committee on Workforce Development, Forestry, Mining, and Revenue

The Department of Revenue appreciates and thanks Senator Tiffany and Representative Stroebel for authoring Senate Bill 253 and Assembly Bill 285 at DOR's request. This legislation includes several items that will reduce unnecessary administrative burdens on both taxpayers and DOR. Additionally, several technical updates in the bill will remove outdated statutory references and help align state statutes with current business practices. While largely technical in nature, the positive changes created by this bill will be noticeable to taxpayers across the state.

The provisions in this legislation reflect several months of work and many are in response to taxpayer requests and concerns received via direct contacts to DOR and legislative casework contacts. DOR is enthusiastic about this legislation because it meets two of our key agency goals: 1) deliver good customer service to individuals and businesses, and 2) operate the Department efficiently and effectively.

While the provisions in this bill are not complex, they are varied and span DOR's operations. A concise summary of each provision follows.

Provisions of Senate Bill 253

Adjust underpayment interest tolerance from \$200 to \$500: Taxpayers who owe more than \$200 when filing their annual individual income tax returns are subject to underpayment interest (UPI). Many taxpayers are unaware of UPI's existence, that is, until they have to pay it. Taxpayers can avoid UPI by adjusting withholding or estimated tax payments throughout the year. However, since the threshold of \$200 is so low, a taxpayer may have difficulty planning to successfully avoid paying UPI.

The Legislature has not updated the UPI threshold over the past 25 years, since its establishment via 1987 Wisconsin Act 27.

Provide a more accepting manufacturing appeals deadline: Until a January 2013 ruling by the Tax Appeals Commission (TAC) in *Unlimited Services of Wisconsin, Inc. v. Wisconsin Department of Revenue*, the Board of Assessors (which is staffed by DOR) accepted appeals to manufacturing assessments that were postmarked within 60 days of the issuance of the Notice of Assessment.

The TAC ruled that the Board of Assessors must have *received* the appeal within the 60 days, and a postmark before the deadline was insufficient to make the appeal timely. DOR recommends clarifying existing law to allow appeals *postmarked* before the deadline to be considered timely, restoring longstanding precedent.

The bill also harmonizes the timelines and standards used by DOR and the TAC related to manufacturing appeals. SB 253 also cleans up outdated language that referred to "receipt" dates and "date of issuance," which are terms that are not verifiable by DOR or taxpayers. The positive result of this bill is that manufacturers will no longer have to know and abide by two

differing timeline standards, and instead, will be able to rely on a clear and verifiable standard if they choose to appeal a manufacturing assessment.

Eliminate requirement to file Form 8 for transfers of capital stock: DOR has received feedback from taxpayers regarding the extra effort needed to meet the requirement to submit a Form 8 –Transfers of Capital Stock, detailing the transfer of capital stock made by or to residents of Wisconsin during the previous calendar year. DOR advocated for this form being a statutory requirement during a period when it was not evident what sort of information that the IRS would share with DOR. The IRS updated Form 1099-B effective January 1, 2011 and shares information from that form with DOR. As a result, the IRS does now, in fact, share all needed information, making this form a redundant and unnecessary requirement for taxpayers.

Lottery ticket prize claim clarification: Lotto ticket players have 180 days from the date of the number drawing to claim a prize. The deadline for redemption of a scratch ticket is 180 days after the end of the game is announced. However, since Powerball, Mega Millions, and other lotto games have no foreseeable end dates, the current statute that reads "within 180 days after the drawing...or within 180 days after the game's end date...whichever is later," could lead some to challenge the Lottery and claim an indefinite prize claim date for lotto games. This provision clarifies the end date for both scratch-off and lotto games, consistent with current DOR interpretation.

This change will provide clarity for players and confirm longstanding interpretation of the end dates of games, while removing a potential vulnerability in statute.

Update motor fuel definition of "bulk plant": The definition of bulk plant under Sec. 78.005(3), Wis. Stats., as it relates to permitting and collecting tax on motor vehicle fuel, is outdated and does not meet current business practices. Modern trucks are capable of carrying larger quantities of fuel and traveling longer distances. DOR recommends removing the 25 mile and 4,200 gallon limits from statute to match current business realities.

This provision will generally affect farm cooperatives who deliver fuel to their members, especially those near the borders of the state. If the product is leaving Wisconsin, the fuel tax is refunded. If the fuel is coming into Wisconsin from another state, the bulk plant operator pays the tax. In other words, if the cooperative is not paying fuel tax in one state, it pays fuel tax in the other. The fuel is not "tax free," and this provision does not result in a fiscal impact because this is current practice.

Repeal defunct Woodland Tax Law: The Woodland Tax Law (WTL) was a program under which an owner of a forest land parcel of 10 to 40 acres could enroll the land for 15 years for the purpose of growing trees for harvest. The last enrollment occurred in 1986, and the last WTL acreage payment was made in the 2000/2001 property tax year. This program is defunct, and DOR recommends cleaning up the statutes by removing obsolete references to it.

Modify DOR property tax publication requirements: Under Sec. 73.03 (54), Wis. Stats., DOR is required to publish material on how to appeal an assessment. The statute also requires DOR to distribute the appeals material to taxation districts but not to taxpayers. DOR currently posts the appeal materials on our website for taxation districts and taxpayers alike. The paper distribution requirement is not reflective of the electronic posting capabilities that came into being with the pervasiveness of the Internet.

Taxpayers already rely on DOR's published *Guide for Property Owners* and *Property Assessment Appeals Guide* for information on how to appeal their assessments. Individual

property owners, the ones actually paying the property taxes, do not receive appeal information *from DOR* in the mail under current law. Current law instead requires an assessor to notify taxpayers of a change in their property's assessment s, and this requirement is not affected by Senate Bill 253.

Definition of "agriculture property factor": The new Manufacturing and Agriculture Credit is available to qualifying businesses. The new credit inadvertently lacks a definition for "agriculture property factor" and relies on the existing definition of "manufacturing property factor" to calculate the credit for agricultural businesses. This technical correction does not affect eligibility for the credit or the fiscal effect of the credit. Instead, it provides an explicit definition for an otherwise undefined term in statutes.

The "agriculture property factor" and its parallel "manufacturing property factor" are components of the equation that the claimant uses to segregate its Wisconsin-based production from production in other states to ensure that credit is not based on non-Wisconsin activities.

The definition proposed in Senate Bill 253 is a purely technical correction. While certain groups and individuals may wish to change current property assessment standards as to what constitutes "agricultural" land, doing so would be a significant policy change and would be a very different change than what is proposed in Senate Bill 253.

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