



No. B024

SUBJECT: Tax Refund Anticipation Loans

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INTRODUCTION

This release applies to all credit unions making income tax refund anticipation loans under the Wisconsin Consumer Act (WCA).

EXECUTIVE SUMMARY

This release describes the requirements of state law and Regulation Z relating to loans agreed to be repaid from the tax refund proceeds. The Wisconsin Consumer Act requires credit unions to provide a special 8-point disclosure to an applicant before he or she agrees to a tax refund anticipation loan. It also prohibits a larger electronic filing fee than that charged without a refund anticipation loan. This release also describes how to compute the Annual Percentage Rate (APR) and finance charge for Reg. Z disclosures.

DEFINITIONS

“Refund anticipation loan” means an agreement under which a creditor arranges to be repaid for a loan directly from the proceeds of a customer’s income tax refund. Wis. Stats. § 421.301(37)(m).

“Refund anticipation loan fees” include charges, fees or other consideration imposed by a creditor for making a refund anticipation loan. Refund anticipation loan fees do not include any charge, fee or other consideration usually imposed by the creditor in the ordinary course of business for non-loan services, such as fees for tax return preparation or fees for electronic filing of tax returns. Wis. Stats. § 421.301(37)(r).

SPECIAL REFUND ANTICIPATION LOAN DISCLOSURE

A credit union must provide a special disclosure in writing to a member/customer on a form that is signed by the customer before entering into a refund anticipation loan. A WCA rule provides that this disclosure is to be given before the customer signs any loan agreement or application containing a loan agreement. Wis. Admin. Code Bkg. 80.353.

The form must disclose all of the following:

1. Any refund anticipation loan fees (as defined above).
2. Any charge or fee for electronically filing an income tax return (i.e., charges or fees assessed by a creditor, including a loan arranger, for checking tax return information, data entry of the tax return information, and costs of transmitting the tax return by computer modem).
3. The total dollar amount of all charges and fees under paragraphs 1 and 2.
4. The anticipated length of time, within two business days, by which the customer will receive the refund anticipation loan proceeds.
5. That the customer may electronically file an income tax return without obtaining a refund anticipation loan.
6. The anticipated length of time within which the customer could reasonably expect to receive a tax refund if the income tax return is filed electronically and the customer does not request a refund anticipation loan.
7. A WCA rule provides that this time frame may not exceed 14 days. Wis. Admin. Code Bkg. 80.354.

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8. That the customer is responsible for repayment of the refund anticipation loan and refund anticipation loan fees even if the income tax refund is not paid or is paid in a lower amount than was anticipated.
9. The estimated APR, based on the size of the loan, the loan fees, and the anticipated maturity date of the refund anticipation loan. The anticipated maturity date must be the date disclosed under paragraph 6.

Under WCA rules, the requirement to disclose the estimated APR shall be fulfilled by doing one of the following:

- a. Calculating the rate pursuant to Reg. Z § 1026.17(c)(2) for the anticipated amount of the refund and the length of time within which it can reasonably be expected the tax refund will be received as a result of an electronically filed tax return as determined under item 6 above, or
- b. Distributing a chart titled “Representative Range of Loan Amounts” with headings for: Total Loan Amount, Amount Financed, Finance Charge, Estimated Payment Period, and Annual Percentage Rate. The representative loan amounts shall be in \$300 increments, starting with \$300 and ending with \$3,000, and represent the anticipated refund amount. See the sample below for this option. Wis. Admin. Code Bkg. 80.355.

REPRESENTATIVE RANGE OF LOAN AMOUNTS (Sample)				
Total Loan Amount	Amount Financed	Finance Charge	Estimated Payment Period	APR
\$300.00	\$330.00	\$30.00	(14 days after IRS receives electronic filed tax return) 289.58%	
\$600.00	\$630.00	\$30.00		137.24%
\$900.00	\$930.00	\$30.00		89.90%
\$1,200.00	\$1,230.00	\$30.00		66.84%
\$1,500.00	\$1,530.00	\$30.00		53.21%
\$1,800.00	\$1,830.00	\$30.00		44.19%
\$2,100.00	\$2,130.00	\$30.00		37.78%
\$2,400.00	\$2,430.00	\$30.00		33.00%
\$2,700.00	\$2,730.00	\$30.00		29.29%
\$3,000.00	\$3,030.00	\$30.00		26.33%

A credit union may not impose a different fee or charge for electronically filing an income tax return for a customer who obtains a refund anticipation loan than it imposes on a customer who does not obtain a refund anticipation loan.

Penalties

A violation of the WCA requirement is subject to Wis. Stats. § 425.304. Thus, violators are liable to the customer in an amount equal to the greater of:

- a. Twice the amount of the finance charge in the transaction (but not less than \$100 or greater than \$1,000), or
- b. The actual damages, including any incidental and consequential damages suffered as a result of the violation.

REGULATION Z DISCLOSURES

For Reg. Z disclosures, the APR must be based upon the actual amount of the loan and the length of time within which it can reasonably be expected the tax refund will be received as a result of the electronically filed tax return.

If the member is required to repay more than the amount borrowed, the difference is a finance charge unless excluded under Reg. Z § 1026.4.

In addition, to the extent that any fees charged in connection with the loan (such as for filing the tax return electronically) exceed those fees for a comparable cash transaction (that is, filing the tax return electronically without a loan), the difference must be included in the finance charge. For example, if the fee for filing the tax return electronically with a loan is greater

than the fee without a loan, the difference is a finance charge under Reg. Z. However, as noted above, this is prohibited if the loan is subject to the Wisconsin Consumer Act.

LIMITS ON LOANS TO SERVICEMEMBERS

Federal law limits the costs and terms allowed for many types of loans, including tax refund anticipation loans, that are made to people in military service and their dependents. For details, please see The League's *ii Release No. B067*.

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Legal Affairs Department

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