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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2009 Assembly Bill 159</b>	<b>Assembly Substitute Amendments 1 and 2</b>
<i>Memo published:</i> November 2, 2009	<i>Contact:</i> Melissa Schmidt, Staff Attorney (266-2298)

*2009 Assembly Bill 159* makes two changes to current law. The first change is to omitted taxes and the second is to delinquent personal property taxes.

### *2009 Assembly Bill 159*

#### *Omitted Real and Personal Property Taxes*

Under *current law*, if a taxation district (city, village, or town) discovers that real or personal property has been omitted from the assessment roll, the taxation district collects the omitted tax and retains the entire amount. *Assembly Bill 159* requires taxation districts to reallocate this money with the other taxing jurisdictions (county, school district, and technical college) when all of the following occur:

- Either the sum of all omitted taxes for a calendar year totals at least \$5,000 and the taxes are reported on a form to the Department of Revenue (DOR); or the omitted tax for any single property in a calendar year is \$500 or more.
- DOR reviews the information on these forms and determines that a change to the equalization value of the taxation district is warranted.

#### *Delinquent Personal Property Taxes*

Under *current law*, a taxation district pays (or “settles”) each taxing jurisdiction its share of personal property taxes, even if the taxes are delinquent. Between February 2 and April 1 of the following year, a district may send a “charge-back” notice to taxing jurisdictions, requiring the jurisdictions to return the amount of personal property taxes remaining delinquent. The jurisdictions must pay the charged-back amount within 30 days of the receipt of the notice.

***Assembly Bill 159*** changes the date that a taxing jurisdiction must pay back the amount of personal property taxes it received to the taxation district if the tax remains delinquent the following year. Upon receipt of notice that the delinquent personal property taxes are being charged-back, a taxing jurisdiction has until May 1 to pay the amount back to the district.

The bill also limits when a taxing jurisdiction must return its share of delinquent personal property taxes to the taxation district to when either of the following occur:

- The delinquent personal property taxes are owned by an entity that ceased operations.
- The delinquent personal property taxes are due on property that has been removed from the next assessment roll.

### ***Assembly Substitute Amendment 1***

#### ***Assembly Substitute Amendment 1 (ASA 1):***

- Clarifies that a taxation district must share omitted taxes if the sum of the omitted taxes for a calendar year totals at least \$5,000 and DOR determines a change to the equalization value of the district is warranted. The amendment removes the provision that omitted taxes on a single piece of property equaling \$500 in a calendar year are subject to sharing.
- Specifies that a taxing jurisdiction must return its share of delinquent personal property taxes if the taxes are owned by an entity that filed a petition for bankruptcy.
- Updates a reference in the statutes as to when a taxation district pays (“settles”) personal property taxes to reflect the current statutory timeframe.
- Changes the effective date of the bill to first apply to property tax assessments as of January 1, 2010, not January 1, 2009.

### ***Assembly Substitute Amendment 2***

#### ***Assembly Substitute Amendment 2 (ASA 2):***

- Moves where the bill creates the process of sharing omitted taxes. ASA 2 moves the process to a more appropriate location in ch. 74, Stats., subch. IV, which sets forth all of the procedures on how taxes are to be settled. Because the changes in the bill and ASA 1 are not located in subch. IV, neither include procedures on how to share the omitted taxes. ASA 2 removes the ambiguity on the process in which omitted taxes are to be shared.
- Incorporates the same provisions as ASA 1, which determine when omitted property taxes are to be shared (a taxation district must share omitted taxes if the sum of the omitted taxes for a calendar year totals at least \$5,000 and DOR determines a change to the equalization value of the district is warranted).

- Changes the effective date of the bill to first apply to property tax settlements occurring in January, after the first October after the effective date of the subsection (the earliest would be January, 2011), and to personal property that is assessed as of the first January 1 after the effective date of this subsection.

**Legislative History**

On August 25, 2009, the Assembly Committee on Urban and Local Affairs took executive action on 2009 Assembly Bill 159. ASA 1 was introduced and recommended for adoption on a vote of Ayes, 7; Noes, 0; and Absent, 1. The bill was recommended for passage as amended by ASA 1 by a vote of Ayes, 7; Noes 0; and Absent 1.

On October 28, 2009, the Joint Committee on Finance introduced and recommended adoption of ASA 2 on a vote of Ayes, 16; Noes, 0. The bill was recommended for passage, as amended by ASA 2, by a vote of Ayes, 16; Noes, 0.

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