

## 2015 DRAFTING REQUEST

### Bill

Received: 12/17/2015 Received By: jkreye  
For: Richard Gudex (608) 266-5300 Same as LRB:  
May Contact: By/Representing: Lance  
Subject: State Finance - miscellaneous Drafter: kpleviak  
Tax, Individual - miscellaneous Addl. Drafters: jkreye  
mshovers

Extra Copies:

Submit via email: YES  
Requester's email: Sen.Gudex@legis.wisconsin.gov  
Carbon copy (CC) to: krista.pleviak@legis.wisconsin.gov  
joseph.kreye@legis.wisconsin.gov  
marc.shovers@legis.wisconsin.gov

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### Pre Topic:

No specific pre topic given

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### Topic:

Various changes to unclaimed property act; tax audits

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### Instructions:

See attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	kpleviak 2/29/2016	eweiss 1/20/2016	_____	lparisi 1/20/2016		State
/P2	kpleviak 3/24/2016	anienaja 3/2/2016	_____	mbarman 3/2/2016		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	kpleviak 4/7/2016	anienaja 3/30/2016	_____ _____	sbasford 3/30/2016		State
/1		anienaja 4/7/2016	_____ _____	sbasford 4/7/2016	sbasford 4/7/2016	State

FE Sent For:

at intro

<END>

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*Jacket  
for Senate  
-KRP*

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	jkreye 3/28/2016	anienaja 3/30/2016	_____	sbasford 3/30/2016		State

FE Sent For:

<END>

**Kreye, Joseph**

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**From:** Burri, Lance  
**Sent:** Thursday, December 17, 2015 2:43 PM  
**To:** Kreye, Joseph  
**Cc:** jculotta@wmc.org  
**Subject:** Ch 177 changes  
**Attachments:** DOR UCP draft proposal.pdf

Joe, document attached. As we discussed on the phone, we're looking to have all of this drafted EXCEPT #4. Feel free to discuss with Jason Culotta if you want. I'll be out all next week. I will be checking my email, but will be unlikely to delve into any statutes.

Thanks. Merry Christmas.

Lance Burri  
Office of Sen. Rick Gudex  
608-266-5300

Summary of DOR Proposed Changes to Chapter 177  
November 4, 2015

Current Law

Proposal

1	<p><b>Voluntary Disclosure Agreements with Holders</b></p> <p>The administrator does not have flexibility to encourage voluntary compliance.</p>	<p>Adopt a "voluntary disclosure program" to encourage voluntary compliance.</p> <ul style="list-style-type: none"> <li>• If an application is received by June 30, 2016 and executed by November 30, 2016:             <ul style="list-style-type: none"> <li>○ Lookback period of 5 years</li> <li>○ Waiver of interest</li> <li>○ Waiver of penalties</li> </ul> </li> <li>• If an application is received after June 30, 2016 or if executed after November 30, 2016:             <ul style="list-style-type: none"> <li>○ Lookback period of 5 years</li> <li>○ 18% interest applies from June 30, 2016 until property is paid or delivered, however a reduction of interest may be awarded (see item 5 below)</li> <li>○ Waiver of penalties</li> </ul> </li> </ul>	<p><i>create</i> S.177.315</p>
2	<p><b>Appeals of Audits of Holders</b></p> <p>(a) Does not provide specific appeal rights and procedures for holders to appeal an examination's findings.</p> <p>(b) Only the attorney general may bring an action in circuit court or federal court to enforce the administrator's findings resulting from an examination of a holder's records.</p>	<p>Provide the holder with appeal rights and procedures similar to those provided for income/franchise tax audits. Provide the WTAC with jurisdiction to hear and determine issues arising from the administrator's examinations of holders.</p> <p>Amend sec. 177.32 to provide that "except as otherwise provided in this chapter", the attorney general may bring an action (i.e., the proposed appeal procedures precede any action by the attorney general).</p>	<p><i>create</i> S.177.43</p> <p>N/A</p>
3	<p><b>Holder Reporting Requirements</b></p> <p>(a) Holders are not required to furnish social security numbers or dates of birth of apparent owners when the holder has such information available.</p> <p>(b) The due date for annual holder reports is "prior to November 1." Longstanding practice has been to treat the due date as November 1.</p>	<p>Require holders to furnish the date of birth and social security numbers or tax identification number of each apparent owner, if the holder has this information, so that DOR can locate owners of property.</p> <p>Clarify that the due date is November 1.</p>	<p><i>create</i> S.177.17(2) (6m)</p> <p><i>amend</i> S.177.17(4) (a)1.</p>

Summary of DOR Proposed Changes to Chapter 177  
November 4, 2015

Current Law Proposal

	<p>(c) Current practice is to have safe deposit box contents delivered to DOR between Feb. 1 and Feb. 15 of the year following the year the contents were abandoned. Current law prescribes the due date for a holder to deliver or pay property to DOR is "upon filing the report." (i.e., Nov. 1)</p>	<p>Clarify that safe deposit box contents are to be delivered to DOR from Feb. 1 through Feb. 15 of the year following the year the report is due.</p>	<p><i>create</i> S.177.17(4) (a) 3.</p>
	<p>(d) Does not explicitly allow administrator to require holders to file reports electronically and to use electronic funds transfers for payments.</p>	<p>Authorize that the administrator may prescribe the manner in which reports are to be filed and property is to be paid.</p>	<p><i>create</i> S.177.17(6)</p>
	<p>(e) Holders are required to keep records of the "last-known address" of the owner of the property for 5 years.</p>	<p>Require holders to maintain "the information required to be included in the report" for 5 years. For example, see 3(a) above.</p>	<p><i>amend</i> S.177.31(1)</p>
	<p>(f) No authority for the administrator to issue estimated assessments in the case of holders who do not file the required reports</p>	<p>Except for voluntary disclosures, authorize the administrator to issue estimated assessments for unclaimed property to holders who do not file returns. The assessments may be appealed by the holder and any amount due and not paid is subject to the DOR collection authority being proposed.</p>	<p>N/A</p>
<p><b>4</b></p>	<p><b>Period of Limitations for Holders</b></p> <p>No civil action or proceeding may be commenced with respect to any duty of a holder more than 5 years after the duty of the holder arose.</p>	<p>Provide that the 5 year period of limitation begins to run once the holder has filed a required report and applies only in respect to property identified on a report. It does not apply in the case of a fraudulent report. A holder and the administrator may agree in writing to extend the 5 year period.</p>	<p>N/A</p>
<p><b>5</b></p>	<p><b>Interest and Penalties Applicable to Holders</b></p> <p>(a) Interest is 18% on any unpaid property (b) \$100/day up to \$5,000 penalty for willful failure to file a report or perform a duty (c) 25% failure to pay penalty (d) \$100 - \$5,000 fine and up to 9 months imprisonment for willful refusal to pay</p>	<p>Amend the law to so that penalties and interest are administered in a manner similar to taxes:</p> <ul style="list-style-type: none"> <li>• Interest is 12% for adjustments or audits</li> <li>• Interest is 18% for "delinquent" amounts             <ul style="list-style-type: none"> <li>○ Administrator may reduce to 12% when fair and equitable</li> <li>○ Collection fee for delinquent amounts due</li> <li>• Keep: \$100-\$5,000 failure to perform a duty penalty</li> <li>• Repeal: 25% failure to pay penalty</li> <li>• New (except for voluntary disclosures):                 <ul style="list-style-type: none"> <li>○ \$150 late filing fee</li> <li>○ 25% late filing penalty</li> <li>○ 25% incorrect or incomplete report penalty</li> <li>○ 100% intent to "defeat or evade" penalty</li> </ul> </li> </ul> </li> </ul>	<p><i>amend</i> S.177.34(1)</p>

Summary of DOR Proposed Changes to Chapter 177  
November 4, 2015

Current Law Proposal

6	<p><b>"Business to Business" Exemption</b></p> <p>Under current law, "intangible property" is generally subject to the unclaimed property laws. However, "credit balances" issued by a business to another business is excluded from the definition of "intangible property." As a result, such "credit balances" are not subject to becoming unclaimed property to be remitted to DOR, except for certain property held by a bank or financial organization.</p>	<ul style="list-style-type: none"> <li>o Misdemeanor for "willful failure" or "false and fraudulent" actions</li> </ul>	<p>Clarify that the following business to business property is generally excluded from becoming unclaimed property:</p> <p><i>"credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unused ticket, or unidentified remittance."</i></p>	<p><i>Amend</i> S. 177.01 (10)(6)</p>
7	<p><b>Confidentiality of Certain Information Received by the Administrator</b></p> <p>(a) There are no duties of confidentiality with respect to information submitted by holders or obtained by the administrator relating to examinations of holders.</p> <p>(b) There are no duties of confidentiality with respect to any tax return information received by the administrator from the DOR</p> <p>(c) There are no duties of confidentiality with respect to information received from claimants during the claim review process</p>	<p>Provide that holder reports and information obtained through audits of holders will be covered by confidentiality provisions similar to confidentiality provisions for income/franchise tax returns and audits.</p> <p>Provide that tax return information furnished to the administrator (i.e., if DOR is not the administrator) is confidential in a manner similar to the confidentiality provisions for income/franchise tax return information</p> <p>Provide that information received during the claim process is confidential, except that the administrator may furnish a claimant's or owner's name, along with any property claimed by or paid to that claimant or owner, to any other claimant filing a claim for the same property.</p>	<p>Provide that holder reports and information obtained through audits of holders will be covered by confidentiality provisions similar to confidentiality provisions for income/franchise tax returns and audits.</p> <p>Provide that tax return information furnished to the administrator (i.e., if DOR is not the administrator) is confidential in a manner similar to the confidentiality provisions for income/franchise tax return information</p> <p>Provide that information received during the claim process is confidential, except that the administrator may furnish a claimant's or owner's name, along with any property claimed by or paid to that claimant or owner, to any other claimant filing a claim for the same property.</p>	<p><i>Create</i> S. 177.42</p> <p><i>Amend</i> S. 177.19 (2)</p> <p><i>Create</i> S. 177.24 (5)</p>
8	<p><b>Recovery from Wrong Owner</b></p> <p>Current law does not provide the administrator with collection authority to recover payments made to a claimant based on incorrect information furnished by the claimant.</p>	<p>Provide that the administrator has discretionary authority to pursue collection action to recover property paid to a claimant in error.</p>	<p>Provide that the administrator has discretionary authority to pursue collection action to recover property paid to a claimant in error.</p>	<p><i>Create</i> S. 177.263</p>
9	<p><b>Appeal Rights for Claimants</b></p> <p>A claimant may appeal a denied claim in circuit court.</p>	<p>Allow claimant to petition for judicial review of the claim under sec. 227.52, rather than bring an action in circuit court.</p>	<p>Allow claimant to petition for judicial review of the claim under sec. 227.52, rather than bring an action in circuit court.</p>	<p><i>Amend</i> S. 177.26</p>
10	<p><b>Money Orders</b></p>			



Summary of DOR Proposed Changes to Chapter 177  
November 4, 2015

Current Law	Proposal
<p>"Private" money orders have an abandonment period of 7 years. "Bank" money orders have an abandonment period of 5 years.</p>	<p>Provides that all money orders have an abandonment period of 5 years.</p>
<p><b>11</b> <b>Escheatment of U.S. Savings Bonds</b> While U.S. savings bonds may be unclaimed property under chapter 177, U.S. Treasury Department regulations prohibit it from turning over the proceeds from matured, but unclaimed savings bonds to any state, unless the state obtains a judgement from a court that the bonds have escheated to the state (the state has become the owner of such bonds).</p>	<p>Provide that the state becomes the owner of matured but unclaimed saving bonds so that bonds can be redeemed from the U.S. Treasury Department. Provide that the bond owner may still file a claim for the bond proceeds after the proceeds have escheated to the state.</p>

*Amend*  
5,177.04(2)

N/A

## LRB-4162 – 01/07/2016 Meeting with Lance – Additional Instructions

### **1. Voluntary Disclosure Agreements with Holders**

Instructions: Provide for the administrator to create a voluntary disclosure program by rule. The program must provide all of the following: (1) if a person participates within the first year, all interest and penalties are waived; (2) after the first year, interest is owed at 3% and all penalties are waived; (3) look back period will be three years; (4) if agreement is finalized, administrator cannot examine records for any reporting year covered by or preceding the agreement; (5) all holders are eligible unless currently under audit; (6) administrator should allow holders to "self-audit"; (7) any agreement will be voidable if the administrator discovers fraud.

### **2. Appeals of Audits of Holders**

#### (a) Holder Appeals of Examination Findings

Instructions: Incorporate the appeal provisions drafted in LRB-3556.

#### (b) Authority to Enforce Ch. 177

Instructions: Do not address in this draft.

### **3. Holder Reporting Requirements**

#### (a) Information Furnished by Holders in Reports

Instructions: Allow the administrator to promulgate rules that provide for secure transmission and storage of social security numbers and other owner data.

#### (f) Administrator Authority to Issue Estimated Assessments

Instructions: Do not address in this draft.

### **5. Interest and Penalties Applicable to Holders**

#### (a) Interest

Instructions: Reduce the interest rate to 6%. The rate should apply to all situations (i.e., both adjustments/audits and delinquent amounts). Do not add a collection fee.

#### (b) – (d) Penalties

Instructions: Do not make any changes to the current penalty provisions.

### **6. Business-to-Business Exemption**

Instructions: Omit gift certificates; add uncashed checks, drafts, or other similar instruments.

### **7. Confidentiality of Certain Information Received by the Administrator**

#### (a) Confidentiality of Holder Information

Instructions: Everything provided by holders should be confidential except whatever information DOR needs to disclose in attempting to locate property owners.

**9. Appeal Rights for Claimants**

Instructions: Instead of the prior instructions, give claimants the same appeal rights as holders under request #2(a), above.

**11. Escheat of U.S. Savings Bonds**

Instructions: Do not address in this draft.

Other: Incorporate the provisions in LRB-3556.

(KRP/JK)



State of Wisconsin  
2015 - 2016 LEGISLATURE

IN: 01/15/16

DUE: 01/20/16 (Wed.)

LRB-4162/P1  
KRP/JK/MES:...

emw

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Request  
sheet  
updated

DNOTE

S.A. ✓  
XREF ✓

Gen.

- 1
- 2
- 3
- 4

**AN ACT** ...; relating to: agreements by the Department of Revenue to allow third-party tax audits; burden of proof for tax assessments based on third-party audits; various changes to unclaimed property law; and requiring the exercise of rule-making authority.

***Analysis by the Legislative Reference Bureau***

**INTRODUCTION**

This bill makes various changes to 1) the Department of Revenue's authority related to third-party tax audits and 2) unclaimed property law.

**THIRD-PARTY TAX AUDITS**

This bill provides that DOR must bear the burden of proof by clear and convincing evidence of each element of any assessment issued by DOR that is based on information, documents, or audit determinations made by any person other than DOR. The bill also prohibits DOR from entering into an agreement to allow a person to engage in an audit of another person's documents or records in order to assess, enforce, or collect a tax or fee administered by DOR. In addition, DOR may not purchase taxpayer information arising from the audit of a taxpayer or any other person, except for information received by the federal government.

**UNCLAIMED PROPERTY**

***Holder Rights and Obligations***

This bill makes various changes to the rights and obligations of persons in possession of property belonging to others (holders) under this state's version of the Uniform Unclaimed Property Act (UUPA).

Under current law, a holder in possession of property that is presumed abandoned and subject to the custody of this state as unclaimed property under the UUPA must annually file a report with the Secretary of Revenue regarding the property. In addition to the other information a holder must report under current law, this bill requires a holder to also report the date of birth and social security number or other tax identification number, if known, of each person who appears to own the property. This bill requires annual reports to be filed no later than November 1 of each year. Under current law, reports must be filed before November 1 of each year.

This bill also requires a holder to maintain a record of all information included in a report for five years after the report is filed. Under current law, the holder is only required to maintain a record of the name and last-known address of any owner of abandoned property included in the report.

Under current law, a holder must, concurrently with the filing of a report, pay or deliver to the secretary all abandoned property included in the report. This bill provides that, with respect to contents of safe deposit boxes, a holder must pay and deliver the contents no earlier than February 1 and no later than February 15 of the year following the year in which the holder was required to file a report with respect to the contents.

Under this bill, if a holder fails to timely pay or deliver abandoned property to the secretary, the holder must pay interest on the value of the property at the annual rate of six percent. Under current law, the annual interest rate is 18 percent.

The bill also provides that a holder may appeal any determination made by the secretary in the same manner as a person may appeal income and franchise tax assessment determinations made by DOR. The UUPA does not currently provide any express appeal rights to holders.

This bill provides that no person may commence a civil action with respect to any duty of a holder more than three years after that duty arose. Under current law, a civil action must be commenced within five years.

### ***Claims for Return of Abandoned Property***

Under current law, any person claiming an interest in property paid or delivered to the secretary under the UUPA may file a claim for return of the property. This bill provides that any information provided by a claimant is confidential, except that if more than one claimant files a claim for return of the same property, the secretary may divulge to each claimant certain details about the property and the other claimants.

This bill also provides that a claimant may appeal an adverse determination made by the secretary in the same manner as a person may appeal income and franchise tax assessment determinations made by DOR. Under current law, a claimant aggrieved by a decision of the secretary may appeal that decision in circuit court.

This bill also allows the secretary, if the secretary determines that a claim was paid in error, to undertake collection actions and commence suit to recover the incorrect payment.

***Voluntary Compliance Program***

This bill directs the secretary to create a voluntary compliance program to encourage persons who are not in compliance with their obligations under the UUPA to voluntarily report and pay or deliver abandoned property to the secretary. The secretary must promulgate rules to implement and administer the program. Among other things, the rules must allow a participant in the program to conduct his or her own audit to determine the participant's liability under the UUPA. A participant who successfully completes the program must report and pay or deliver all abandoned property for no more than the prior three fiscal years, and the participant will receive a reduction in or complete waiver of all interest and penalties that would have been imposed on the participant for noncompliance. The rules also must provide that if a participant in the program makes false or misleading statements in connection with the program, the secretary may revoke any benefits conferred on the participant under the program.

***Business-to-Business Obligations***

This bill amends the definition of intangible property to exclude certain obligations owed by one business to another business. Under this bill, those business-to-business obligations are not covered under the UUPA. As a result, those obligations will not be presumed abandoned and subject to the custody of this state under the UUPA, even if the obligations remain unclaimed by the owner, and the holders of those obligations will not be required to turn over those funds to the secretary.

***Period of Time after which Money Orders Are Presumed Abandoned***

This bill reduces the period of time required for an unclaimed money order to be presumed abandoned under the UUPA. Under current law, a money order or other similar instrument, other than a third-party check, that has been outstanding for more than seven years after its issuance is presumed abandoned, unless the owner has communicated in writing with the issuer concerning the money order within that period of time. This bill reduces the applicable period of time from seven years to five years.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 73.03 (72) of the statutes is created to read:
- 2           73.03 (72) To bear the burden of proof by clear and convincing evidence of each
- 3           element of any assessment issued by the department that is based in whole or in part

1 on information, documents, or audit determinations made or provided by any person,  
2 other than the department.

3 \*\*\*\*NOTE: SECTION 1 of this draft is copied from SECTION 1 in LRB-3556/P1.

4 SECTION 2. 73.16 (3) (a) 2. of the statutes is amended to read:

5 73.16 (3) (a) 2. A department employee who was involved in the prior audit  
6 determination identified or reviewed the tax issue before completing the prior audit  
7 determination, as shown by any schedules, exhibits, audit reports, documents, or  
8 other written evidence pertaining to the audit determination, and the schedules,  
9 exhibits, reports, documents, and other written evidence show that the department  
10 did not adjust the person's treatment of the tax issue, except that the condition in this  
11 subdivision does not apply if the prior audit was based on information, documents,  
12 or audit determinations that were made or provided by any person other than the  
department.

History: 2011 a. 68; 2013 a. 20.

13 \*\*\*\*NOTE: SECTION 2 of this draft is copied from SECTION 2 in LRB-3556/P1.

14 SECTION 3. 73.16 (6) of the statutes is created to read:

15 73.16 (6) THIRD-PARTY AUDITS. Except as provided in s. 73.03 (28d), the  
16 department may not enter into a contract or other agreement to permit any person  
17 to engage in an audit of another person's documents or records as part of an effort  
18 to assess, enforce, or collect a tax or fee administered by the department, or to  
19 purchase taxpayer information or documents arising from the audit of a taxpayer or  
20 any other person, except that this subsection does not apply to information received  
from the federal government.

21 \*\*\*\*NOTE: SECTION 3 of this draft is copied from SECTION 3 in LRB-3556/P1.

22 SECTION 4. 177.01 (10) (b) of the statutes is renumbered 177.01 (10) (b) (intro.)  
and amended to read:

1 177.01 (10) (b) <sup>(Intro.)</sup> "Intangible property" does not include a credit balance issued  
 2 to a commercial customer account any of the following obligations that is owed by a  
 3 business association to another business association in the ordinary course of  
 4 business:

- 5 1. A credit balance issued to a commercial customer account, unless the credit
- 6 balance is property described in s. 177.06 (1) or (2) held by a banking organization
- 7 or financial organization.

8 History: 1983 a. 408; 1991 a. 221; 1993 a. 112; 1999 a. 9; 2001 a. 109; 2013 a. 20.

8 SECTION 5. 177.01 (10) (b) 2. to 8. of the statutes are created to read:

- 9 177.01 (10) (b) 2. A customer overpayment.
- 10 3. A security deposit.
- 11 4. A refund.
- 12 5. A credit memorandum.
- 13 6. An unused ticket.
- 14 7. An unidentified remittance.
- 15 8. An uncashed check, draft, or other similar instrument.

History: 1983 a. 408; 1991 a. 221; 1993 a. 112; 1999 a. 9; 2001 a. 109; 2013 a. 20.

\*\*\*NOTE: SECTIONS 4 and 5 of this draft address item 6 of the instructions, as  
 modified during our subsequent meeting. ✓

\*\*\*NOTE: Some of these business-to-business obligations would benefit from  
 additional details or definitions. For example, what is "an unused ticket"? (KRP) ✓

\*\*\*NOTE: Consider whether the use of the defined term "business association," as  
 defined in s. 177.01 (5), accurately captures your intent. (KRP) ✓

16 SECTION 6. 177.04 (2) of the statutes is amended to read:

17 177.04 (2) Subject to sub. (4), any sum payable on a money order or similar  
 18 written instrument, other than a 3rd-party bank check, that has been outstanding  
 19 for more than ~~7~~ 5 years after its issuance is presumed abandoned unless the owner,  
 20 within ~~7~~ 5 years, has communicated in writing with the issuer concerning it or



1 otherwise indicated an interest as evidenced by a memorandum or other record on  
2 file prepared by an employee of the issuer.

History: 1983 a. 408; 2005 a. 253.

\*\*\*\*NOTE: SECTION 6 of this draft addresses item 10 of the instructions.

3 SECTION 7. 177.17 (2) (bm) of the statutes is created to read:

4 177.17 (2) (bm) The date of birth and social security number or other tax  
5 identification number, if known, of each apparent owner.

\*\*\*\*NOTE: SECTION 7 of this draft addresses item 3(a) of the instructions.

6 SECTION 8. 177.17 (4) (a) 1. of the statutes is amended to read:

7 177.17 (4) (a) 1. ~~Before~~ No later than November 1 of each year, each holder shall  
8 file a report covering the previous fiscal year. In this paragraph, "fiscal year" means  
9 the period beginning on July 1 and ending on the following June 30. On written  
10 request by any person required to file a report, the administrator may extend the  
11 deadline established in this paragraph.

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to 2890, 2897; 2003 a. 33; 2005 a. 400; 2007 a. 157.

\*\*\*\*NOTE: SECTION 8 of this draft addresses item 3(b) of the instructions.

12 SECTION 9. 177.17 (4) (a) 2. of the statutes is amended to read:

13 177.17 (4) (a) 2. Except as otherwise provided in this subdivision and except  
14 as provided in subd. 3. and s. 177.06 (4), upon filing the report under subd. 1., the  
15 holder shall pay or deliver to the administrator all abandoned property required to  
16 be reported. This subdivision does not apply to abandoned property that is in the  
17 form of amounts credited under s. 20.912 (1) to the support collections trust fund or  
18 amounts not distributable from the support collections trust fund to the persons for  
19 whom the amounts were awarded.

History: 1983 a. 408; 1987 a. 399; 2001 a. 16 ss. 2888 to 2890, 2897; 2003 a. 33; 2005 a. 400; 2007 a. 157.

20 SECTION 10. 177.17 (4) (a) 3. of the statutes is created to read:

21 177.17 (4) (a) 3. With respect to the contents of safe deposit boxes and other  
22 safekeeping repositories required to be reported under subd. 1, the holder shall pay

1 or deliver the contents of safe deposit boxes and other safekeeping repositories to the  
2 administrator no earlier than February 1, and no later than February 15, of the year  
3 following the year in which the holder was required to file the report under subd. 1.

\* \*\*\*\*NOTE: SECTIONS 9 and 10 of this draft address item 3(c) of the instructions.

4 **SECTION 11.** 177.17 (6) of the statutes is created to read:

5 177.17 (6) The administrator may promulgate rules establishing procedures  
6 for filing reports and for payment and delivery of abandoned property under this  
7 section, including transmission and storage safeguards to prevent unauthorized  
8 disclosure of dates of birth, social security numbers, and other tax identification  
9 numbers reported under this section.

\* \*\*\*\*NOTE: SECTION 11 of this draft addresses item 3(d) of the instructions.

10 **SECTION 12.** 177.19 (2) of the statutes, as created by 2013 Wisconsin Act 308,  
11 is amended to read:

12 177.19 (2) The department of revenue shall notify the administrator if any  
13 person under sub. (1) has filed a Wisconsin income tax return in that year and shall  
14 provide the administrator with the address of the person that appears on the tax  
15 return. The department of revenue shall also notify the administrator if any person  
16 under sub. (1) is a debtor under s. 71.93 or 71.935. Any information provided by the  
17 department of revenue under this subsection shall be subject to the confidentiality  
18 provisions under s. 71.78.

History: 2013 a. 308.

\* \*\*\*\*NOTE: SECTION 12 of this draft addresses item 7(b) of the instructions.

19 **SECTION 13.** 177.24 (5) of the statutes is created to read:

20 177.24 (5) Any information provided by a claimant to the administrator under  
21 this section shall be considered confidential information under s. 177.42, except that,  
22 if the administrator receives more than one claim for the same property, the

1 administrator may divulge to each claimant the name of any other claimant of the  
2 same property, the name of any person appearing to be the owner of the property, and  
3 a description of any property claimed by, and any property paid or delivered to, any  
4 other claimant.

\* \*\*\*\*NOTE: SECTION 13 of this draft addresses item 7(c) of the instructions.

\*\*\*\*NOTE: Is it your intent that the administrator divulge information about all property claimed by or paid to another claimant of the same property or that the administrator only divulge whether the *contested property* has been claimed by or paid to another claimant? As currently drafted, information about all property can be divulged. (KRP)

\*\*\*\*NOTE: Should this provision have a delayed effective date to allow the administrator adequate time to implement this change? (KRP)

5 SECTION 14. 177.26 of the statutes is amended to read:

6 **177.26 Action to establish claim.** A person aggrieved by a decision of the  
7 administrator under s. 177.24 or 177.25 or whose claim has not been acted upon  
8 within 90 days after its filing may ~~bring an action to establish the claim in the circuit~~  
9 ~~court, naming the administrator as a defendant. The action shall be brought, within~~  
10 ~~90 days after the decision of the administrator or within 180 days after the filing of~~  
11 ~~the claim if the administrator has failed to act on it. If the person establishes the~~  
12 ~~claim in an action against the administrator, the court shall award the person costs~~  
13 ~~and reasonable attorney fees~~ appeal the decision as provided under s. 177.43. The  
14 administrator's failure to act upon a claim under s. 177.24 or 177.25 within 90 days  
15 after its filing is considered notice of a final decision solely for the purpose of  
16 appealing the decision under this section.

History: 1983 a. 408.

\* \*\*\*\*NOTE: SECTION 14 of this draft addresses item 9 of the instructions, as modified during our subsequent meeting.

\*\*\*\*NOTE: Should this provision have a delayed effective date to allow the administrator adequate time to implement this change? (KRP)

17 SECTION 15. 177.263 of the statutes is created to read:

1           **177.263 Recovery of incorrect payments.** If the administrator determines  
2 that a claim paid under ss. 177.24 <sup>or</sup> 177.25 was paid in error, the administrator may  
3 undertake any collection actions and may commence suit to recover the incorrect  
4 payment from the recipient to whom or on whose behalf the payment was made.

\* **NOTE:** SECTION 15 of this draft addresses item 8 of the instructions.

5           **SECTION 16.** 177.29 (2) (a) of the statutes is amended to read:  
6           177.29 (2) (a) Except as provided in par. (b), no civil action or proceeding with  
7 respect to any duty of a holder under this chapter may be commenced more than 5  
8 3 years after the duty arose.

History: 1983 a. 408; 1991 a. 299.  
\* **NOTE:** SECTION 16 of this draft is copied from SECTION 4 in LRB-3556/P1.

9           **SECTION 17.** 177.31 (1) of the statutes is amended to read:  
10           177.31 (1) Every holder required to file a report under s. 177.17 shall, ~~as to any~~  
11 ~~property for which it has obtained the last-known address of the owner,~~ maintain the  
12 records ~~the name and last-known address of the owner~~ containing the information  
13 required to be included in the report for 5 years after the ~~property is reported~~ holder  
14 files the report, unless a shorter time is provided in sub. (2) or by rule of the  
15 administrator.

History: 1983 a. 408; 2005 a. 253.  
\* **NOTE:** SECTION 17 of this draft addresses item 3(e) of the instructions. This draft  
does not incorporate SECTION 5 in LRB-3556/P1 because that provision conflicts with the  
other instructions we received.

**NOTE:** This language is based on section 21 (a) of the Uniform Unclaimed  
Property Act (1995), which has not been adopted in Wisconsin. (KRP)

16           **SECTION 18.** 177.315 of the statutes is created to read:  
17           **177.315 Voluntary compliance program.** (1) ESTABLISHMENT OF PROGRAM.  
18           The administrator shall establish a voluntary compliance program to encourage  
19 persons who are not in compliance with this chapter to voluntarily report and pay

(1) Definition. In this section, "fiscal year" has the meaning given  
in s. 177.17 (4)(b) 1.

1 or deliver abandoned property held by them that should have been, but was not,  
2 reported and paid or delivered to the administrator.

3 <sup>3</sup>(2) RULES. The administrator shall promulgate rules to implement and  
4 administer the program established under sub. <sup>2</sup>(1). The rules shall do all of the  
5 following:

6 (a) Provide that any person is eligible to participate in the program unless, at  
7 the time the person applies to participate in the program, the administrator is  
8 conducting an examination of the person's records under s. 177.30 (2) or (3).

9 (b) Specify the process that a person must follow to apply to participate in the  
10 program and to successfully complete the program.

11 (c) Unless the administrator has reason to believe that information provided  
12 by a person in connection with the program is untrue, allow the person to conduct  
13 the person's own audit, examination, review, or other inspection of the person's  
14 records to determine what abandoned property the person should have reported and  
15 paid or delivered to the administrator for each of the 3 fiscal years, as defined in s.

16 177.17 (4) (a) 1., immediately preceding the date on which the person applied to  
17 participate in the program.

18 (d) Provide that any person who successfully completes the program shall be  
19 deemed to be in compliance with the person's obligations under this chapter upon  
20 reporting and paying or delivering abandoned property for each of the 3 fiscal years,

21 as defined in s. 177.17 (4) (a) 1., immediately preceding the date on which the person  
22 applied to participate in the program.

23 (e) Provide that, for any person who successfully completes the program, the  
24 administrator shall enter into an agreement with the person by which the  
25 administrator shall do all of the following:

1 1. If the person completes the program within the first year that the program  
2 is available, waive or abate all interest and penalties imposed under s. 177.34 for all  
3 fiscal years, as defined in s. 177.17 (4) (a) 1., preceding the date on which the person  
4 applied to participate in the program.

5 2. If the person completes the program after the first year that the program is  
6 available, all of the following:

7 a. Reduce the annual rate of interest payable under s. 177.34 (1) to 3 percent  
8 for each fiscal year, as defined in s. 177.17 (4) (a) 1., covered by the agreement.

9 b. Waive or abate all interest imposed under s. 177.34 (1) for all fiscal years,  
10 as defined in s. 177.17 (4) (a) 1., prior to the period covered by the agreement.

11 c. Waive or abate all penalties imposed under s. 177.34 (2) to (4) for all fiscal  
12 years, as defined in s. 177.17 (4) (a) 1., covered by the agreement and prior to the  
13 period covered by the agreement.

14 3. Agree to refrain from conducting an examination of the person's records  
15 under s. 177.30 (2) or (3) or <sup>from</sup> seeking an estimate of liability under s. 177.30 (5) with  
16 respect to any fiscal year, as defined in s. 177.17 (4) (a) 1., covered by the agreement  
17 or prior to the period covered by the agreement.

18 (f) Provide that, if the person makes false or misleading statements in  
19 connection with the program, the agreement described in par. (e) is voidable at the  
20 option of the administrator, and the administrator may revoke any of the benefits  
21 conferred on the person under the program.

22 \* <sup>#</sup> \*\*\*NOTE: SECTION 18 of this draft addresses item 1 of the instructions.

23 **SECTION 19.** 177.34 (1) of the statutes is amended to read:

24 177.34 (1) A person who fails to pay or deliver property within the time  
prescribed by this chapter shall pay the administrator interest at the annual rate of

1 ~~18%~~ 6 percent on the property or the value thereof of the property from the date the  
2 property should have been paid or delivered.

History: 1983 a. 408.

\*\*\*\*NOTE: SECTION 19 of this draft addresses item 5(a) of the instructions, as  
modified during our subsequent meeting.

3 SECTION 20. 177.42 of the statutes is created to read:

4 **177.42 Confidentiality.** (1) DEFINITION. In this section, "confidential  
5 information" means any report filed under s. 177.17, any record examined under s.  
6 177.30, any document submitted in connection with the voluntary compliance  
7 program under s. 177.315, or any information contained in or derived from a report,  
8 record, or document.

9 (2) DIVULGING INFORMATION. Except as provided in sub. (3) and s. 177.18, no  
10 person may divulge, circulate, or offer to obtain, divulge, or circulate confidential  
11 information.

12 (3) EXCEPTIONS. This section does not prohibit any of the following:

13 (a) The administrator from publishing information necessary to allow owners  
14 and apparent owners to claim their property.

15 (b) The administrator from reporting information necessary to comply with  
16 agreements with other states under s. 177.33.

17 (c) The administrator from publishing statistics classified so as not to disclose  
18 the identity of particular holders or of particular reports.

19 (d) The administrator or the administrator's agents from offering or submitting  
20 confidential information as evidence into the record of any contested matter  
21 involving the administrator or the administrator's agents in proceedings or litigation  
22 under this chapter if, in the administrator's judgment, that evidence has reasonable  
23 probative value.

\*\*\*NOTE: SECTION 20 of this draft addresses item 7(a) of the instructions.

\*\*\*NOTE: This provision is modeled on s. 71.78 (1), but we did not retain the provisions that allow newspapers and public speakers to publish or refer to information "lawfully derived" from confidential information. Do you also want any of the following to apply: sub. (1m) (browsing prohibited); sub. (2) (disclosure of net tax); sub. (3) (disclosure limitation); sub. (4) (persons qualified to examine returns for specified purposes); sub. (4m) (disclosure of certain dates); sub. (5) (agreement with department); sub. (6) (restriction on use of information); sub. (7) (charge for costs); sub. (8) (district attorneys); sub. (9) (disclosure of debtor address); or sub. (10) (divulging information to requester)? (JK)

\*\*\*NOTE: Should this provision have a delayed effective date to allow the administrator adequate time to implement this change? (JK)

**SECTION 21.** 177.43 of the statutes is created to read:

**177.43 Appeals.** Subchapter XIV of ch. 71, as it applies to appeals of income and franchise tax assessment determinations under ch. 71, applies to appeals of the determinations made by the administrator under this chapter.

\*\*\*NOTE: SECTION 21 of this draft is copied from SECTION 6 in LRB-3556/P1 and addresses item 2(a) of the instructions.

**SECTION 22. Initial applicability.**

(1) AUDITS. The treatment of sections 73.03 (72) and 73.16 (3) (a) 2. and (6) of the statutes first applies to an audit that is commenced, or an assessment that is issued, by the department of revenue on the effective date of this subsection.

(2) INTANGIBLE PROPERTY; PRESUMPTION OF ABANDONMENT; CONTENTS OF REPORTS

The treatment of sections 177.01 (10) (b) and (b) 2. to 8., 177.04 (2) and 177.17 (2) (bm) of the statutes first applies to fiscal years, as defined in s. 177.17 (4) (a) 1., 2013 stats., beginning on July 1, 2016.

(3) REPORTING, PAYMENT, AND DELIVERY DEADLINES; RECORDS REQUIRED TO BE MAINTAINED. The treatment of sections 177.17 (4) (a) 1., 2., and 3. and 177.31 (1) of the statutes first applies to a report required to be filed on November 1, 2016.

(4) CLAIMS. The treatment of sections 177.24 (5) and 177.26 of the statutes first applies to a claim filed on the effective date of this subsection.

of the statutes as affected by this act

10  
11  
12

apply  
section  
the renumbering and amendment of section 177.01 (10)(b) of the statutes and the creation of section 177.01 (10)(b) 2. to 8. of the statutes



**SECTION 22**

1           (5) STATUTE OF LIMITATIONS. The treatment of section 177.29 (2) (a) of the  
2 statutes first applies to a duty of a holder that arises on the effective date of this  
3 subsection.

4           (6) INTEREST. The treatment of section 177.34 (1) of the statutes first applies  
5 to a duty to pay or deliver property that arises on the effective date of this subsection.

6           (7) APPEALS. The treatment of section 177.43 of the statutes first applies to a  
7 determination of the administrator made on the effective date of this subsection.

8           **SECTION 23. Effective dates.** This act takes effect on the day after publication,  
9 except as follows:

10           (1) INTANGIBLE PROPERTY. The renumbering and amendment of section 177.01  
11 (10) (b) of the statutes and the creation of section 177.01 (10) (b) 2. to 8. of the statutes  
12 take effect on July 1, 2016.

13

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4162/P1dn  
KRP/JK/MES:...

*emw*

— Date —

✓  
Lance:

As you requested, following is a chart showing where in the draft each of your requests is addressed. Please let us know if you have any questions.

Krista Pleviak  
Legislative Attorney  
(608) 266-7290  
krista.pleviak@legis.wisconsin.gov

Request Number	Statute Sections Affected	Section of the Draft	
1. Voluntary Disclosure Program	177.315	18	✓
2. (a) Holder Appeals of Examination Findings	177.43	21	✓
(b) Authority to Enforce Ch. 177	N/A	N/A	✓
3. (a) Information Furnished by Holders in Reports	177.17 (2) (bm)	7	✓
(b) Due Date for Filing Annual Holder Reports	177.17 (4) (a) 1.	8	✓
(c) Deadline for Delivery of Safe Deposit Box Contents	177.17 (4) (a) 3.	9 and 10	✓
(d) Rules for Filing Reports and Paying Property	177.17 (6)	11	✓
(e) Holder Obligation to Maintain Records	177.31 (1)	17	✓
(f) Administrator Authority to Issue Estimated Assessments	N/A	N/A	✓
4. Changes to the Period of Limitations for Holders	N/A	N/A	✓
5. (a) Interest Applicable to Holders	177.34 (1)	19	✓
(b) – (d) Penalties Applicable to Holders	N/A	N/A	✓

6. Business-to-Business Exemption	177.01 (10) (b)	4 and 5	✓
7. (a) Confidentiality of Holder Information	177.42	20	✓
(b) Confidentiality of Tax Return Information	177.19 (2)	12	✓
(c) Confidentiality of Claimant Information	177.24 (5)	13	✓
8. Recovery from Wrong Owner	177.263	15	✓
9. Appeal Rights for Claimants	177.26	14	✓
10. Money Orders	177.04 (2)	6	✓
11. Escheat of U.S. Savings Bonds	N/A	N/A	✓

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4162/P1dn  
KRP/JK/MES:emw

January 20, 2016

Lance:

As you requested, following is a chart showing where in the draft each of your requests is addressed. Please let us know if you have any questions.

Krista Pleviak  
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Request Number	Statute Sections Affected	Section of the Draft
1. Voluntary Disclosure Program	177.315	18
2. (a) Holder Appeals of Examination Findings	177.43	21
(b) Authority to Enforce Ch. 177	N/A	N/A
3. (a) Information Furnished by Holders in Reports	177.17 (2) (bm)	7
(b) Due Date for Filing Annual Holder Reports	177.17 (4) (a) 1.	8
(c) Deadline for Delivery of Safe Deposit Box Contents	177.17 (4) (a) 3.	9 and 10
(d) Rules for Filing Reports and Paying Property	177.17 (6)	11
(e) Holder Obligation to Maintain Records	177.31 (1)	17
(f) Administrator Authority to Issue Estimated Assessments	N/A	N/A
4. Changes to the Period of Limitations for Holders	N/A	N/A
5. (a) Interest Applicable to Holders	177.34 (1)	19
(b) - (d) Penalties Applicable to Holders	N/A	N/A

6. Business-to-Business Exemption	177.01 (10) (b)	4 and 5
7. (a) Confidentiality of Holder Information	177.42	20
(b) Confidentiality of Tax Return Information	177.19 (2)	12
(c) Confidentiality of Claimant Information	177.24 (5)	13
8. Recovery from Wrong Owner	177.263	15
9. Appeal Rights for Claimants	177.26	14
10. Money Orders	177.04 (2)	6
11. Escheat of U.S. Savings Bonds	N/A	N/A