

2017 DRAFTING REQUEST

Bill

For: Howard Marklein (608) 266-0703 Drafter: kpleviak  
 By: Scott Secondary Drafters:  
 Date: 1/3/2017 May Contact:  
 Same as LRB:

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

Pre Topic:

No specific pre topic given

Topic:

Due dates of income tax returns and estimated tax payments

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 1/4/2017	anienaja 1/5/2017			
/P1	kpleviak 1/9/2017		hkohn 1/5/2017		State
/P2		anienaja 1/10/2017			State
/P3	kpleviak 1/10/2017		mbarman 1/10/2017		State
/A-		anienaja	rmilford	rmilford	State

Vers.    Drafted

Reviewed  
1/10/2017

Submitted  
1/10/2017

Jacketed  
1/10/2017

Required

FE Sent For:

<END>

AT  
INTRO.

## Pleviak, Krista

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**Subject:** Marklein Draft Request  
**Attachments:** Corporate - Change Due Dates of Partnership and Corporation Returns - Same as federal 7-14-16.docx

**From:** Coenen, Scott  
**Sent:** Thursday, December 22, 2016 3:27 PM  
**To:** Shovers, Marc <[Marc.Shovers@legis.wisconsin.gov](mailto:Marc.Shovers@legis.wisconsin.gov)>  
**Subject:** Marklein Draft Request

Hey Marc,

Hope you're well sir. I have attached drafting instructions from the Department of Revenue. We would like to include all of these changes in one draft. For now we would like to keep the effective date at December 31, 2016.

Please feel free to call or email with any questions or if I can clarify.

~Scott

Scott Coenen  
Office of State Senator Howard Marklein  
17th Senate District  
(608) 266-0703  
[Scott.Coenen@legis.wi.gov](mailto:Scott.Coenen@legis.wi.gov)



**TITLE:** Due Dates of Corporate and Partnership Tax Returns, and Estimated Tax Payments

**DESCRIPTION OF CURRENT LAW AND PROBLEM**

President Obama signed H.R. 3236 on July 31, 2015, which sets new due dates for federal partnership and C corporation franchise/income tax returns for taxable years beginning after December 31, 2015. The purpose of the change is to allow partners of partnerships to receive Schedule K-1 information prior to the filing deadline of the corporate and individual income tax returns.

The due dates of Wisconsin partnership and C corporation returns are not federalized; they are set by the Wisconsin statutes. Unless a change is made to the Wisconsin Statutes, the due dates of Wisconsin and federal tax returns will differ and cause confusion for taxpayers.

Additionally, the due dates for Wisconsin corporate estimated tax payments are inconsistent with federal corporate estimated tax payment due dates, which causes confusion for taxpayers.

**Federal Corporate Estimated Tax Due Dates:**

- April 15 (15<sup>th</sup> day of 4<sup>th</sup> month of tax year for fiscal)
- June 15 (15<sup>th</sup> day of 6<sup>th</sup> month of tax year for fiscal)
- September 15 (15<sup>th</sup> day of 9<sup>th</sup> month of tax year for fiscal)
- December 15 (15<sup>th</sup> day of 12<sup>th</sup> month of tax year for fiscal)

**Wisconsin Corporate Estimated Tax Due Dates:**

- March 15 (15<sup>th</sup> day of 3<sup>rd</sup> month of tax year for fiscal)
- June 15 (15<sup>th</sup> day of 6<sup>th</sup> month of tax year for fiscal)
- September 15 (15<sup>th</sup> day of 9<sup>th</sup> month of tax year for fiscal)
- December 15 (15<sup>th</sup> day of 12<sup>th</sup> month of tax year for fiscal)

The chart below summarizes the current and proposed Wisconsin tax return filing deadlines:

**Comparison of New Wisconsin Return Due Dates with Prior Wisconsin Return Due Dates**

Return Type	Due Dates Under Prior WI Law	Due Dates Under New WI Law	Comments
<b>Partnership (calendar year)</b>	4/15 9/15	3/15 9/15	Federal extension changes from 5 to 6 months; WI does not allow additional 30 days like corps
<b>S Corporation (calendar year)</b>	3/15 10/15	3/15 10/15	No changes
<b>Trust and Estate</b>	4/15 9/15	4/15 9/30	IRS changed extension to 5½ months; WI does not allow additional 30 days like corps
<b>C Corporation (calendar year)</b>	3/15 10/15	<u>Before 2026</u> 4/15 10/15 <u>After 2025</u> 4/15 11/15	Prior to 2026, federal 6 month extension reduced to 5 months. After 2025, federal 6 month extension applies. WI allows additional 30 days
<b>C Corporation (fiscal year other than 12/31 or 6/30)</b>	15 <sup>th</sup> day of 3 <sup>rd</sup> month 15 <sup>th</sup> day of 10 <sup>th</sup> month	15 <sup>th</sup> day of 4 <sup>th</sup> month 15 <sup>th</sup> day of 11 <sup>th</sup> month	Federal allows 6 month extension; WI allows additional 30 days
<b>C Corporation (fiscal year end 6/30)</b>	9/15 4/15	<u>Before 2026</u> 9/15 5/15 <u>After 2025</u> 10/15 5/15	New due dates go into effect after 2025. Federal interim 7 month extension for years prior to 2026; after 2025, 6 month extension applies. WI allows additional 30 days
<b>Individual</b>	4/15 10/15	4/15 10/15	No changes
<b>Exempt Organization</b>	5/15 9/15 12/15	5/15 12/15	Federal 90 day extension eliminated; new single 6 month automatic extension; WI allows additional 30 days
<b>PW-1: Partnership</b>	4/15	3/15	To coincide with new federal due dates

## RECOMMENDATION FOR ACTION

In order to provide consistency between state and federal tax return due dates and estimated tax payment due dates, the Wisconsin Statutes should be amended to reflect the federal due dates of partnership and C corporation tax returns and estimated payments. This will require the due date of the annual pass-through entity withholding tax return (Form PW-1) for partnerships to change as well in order to be consistent with the due date for tax-option (S) corporations.

## IMPACT ON JOBS CREATION

This proposal is not expected to have an impact on job creation.

## FISCAL EFFECT

Unknown at this time.

## DRAFTING INSTRUCTIONS

- Amend sec. 71.20(1), Wis. Stats., to read:

Every partnership shall furnish to the department a true and accurate statement, on or before ~~April 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of such fiscal year~~ the date applicable for federal income taxes under the internal revenue code, in such manner and form and setting forth such facts as the department deems necessary to enforce this chapter. A partnership that is the owner of a single-owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code shall include that entity's information on the owner's return under this subchapter. The statement shall be subscribed by one of the members of the partnership.

- Amend sec. 71.24(1), Wis. Stats., to read:

Every corporation, except corporations all of whose income is exempt from taxation and except as provided in sub. (1m) and sub. (1n), shall furnish to the department a true and accurate statement, on or before ~~March 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15<sup>th</sup> day of the 3<sup>rd</sup> month following the close of such fiscal year and, except that returns for less than a full taxable year shall be furnished on or before the date applicable for federal income taxes~~ under the internal revenue code, in such manner and form and setting forth such facts as the department deems necessary to enforce this chapter. Every corporation that is required to furnish a statement under this subsection and that has income that is not taxable under this subchapter shall include with its statement a report that identifies each item of its nontaxable income. The statement shall be subscribed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, the fiduciary shall subscribe the

return. The fact that an individual's name is subscribed on the return shall be prima facie evidence that the individual is authorized to subscribe the return on behalf of the corporation.

- Create sec. 71.24(1n), Wis. Stats., to read:

Every tax-option corporation shall furnish to the department a true and accurate statement, on or before the date applicable for federal income taxes under the internal revenue code. The requirements about manner, form, and subscription under sub. (1) apply to statements under this subsection.

- Amend sec. 71.24(9)(a), Wis. Stats., to read:

Corporation franchise and income taxes not paid on or before the ~~15<sup>th</sup> day of the 3<sup>rd</sup> following the close of the taxable year~~ date applicable for federal income taxes under the internal revenue code shall be deemed delinquent.

- Amend sec. 71.29(8), Wis. Stats., to read:

INSTALLMENT DUE DATES Taxpayers shall make estimated payments in 4 installments, on or before the 15<sup>th</sup> day of each of the following months:

- (a) The 3<sup>rd</sup> 4<sup>th</sup> month of the taxable year.
- (b) The 6<sup>th</sup> month of the taxable year.
- (c) The 9<sup>th</sup> month of the taxable year.
- (d) The 12<sup>th</sup> month of the taxable year.

- Amend sec. 71.36(4), Wis. Stats., to read:

Every tax-option corporation that is required to file a return under s. ~~71.24(4)~~ 71.24(1n) shall, on or before the due date of the return, including extensions, provide a schedule to each shareholder whose share of income, deductions, credits, or other items of the tax-option corporation may affect the shareholder's tax liability under this chapter. The schedule shall separately indicate the shareholder's share of each item.

- Amend sec. 71.44(1)(a), Wis. Stats., to read:

Every corporation, except corporations all of whose income is exempt from taxation and except as provided in sub. (1m), shall furnish to the department a true and accurate statement, on or before ~~March 15~~ of each year, ~~except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 3<sup>rd</sup> month following the close of such fiscal year and, except that returns for less than a full taxable year shall be furnished on or before the date applicable for federal income taxes under the internal revenue code, in such manner and form and setting forth such facts as the department deems necessary to enforce this chapter. Every corporation that is required to furnish a statement under this paragraph and that has income that is not taxable under this subchapter shall~~

include with its statement a report that identifies each item of its nontaxable income. The statement shall be subscribed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, the fiduciary shall subscribe the return. The fact that an individual's name is subscribed on the return shall be prima facie evidence that the individual is authorized to subscribe the return on behalf of the corporation.

- Amend sec. 71.44(4)(b), Wis. Stats., to read:

Corporation franchise and income taxes not paid on or before the ~~15th day of the 3rd month following the close of the taxable year~~ date applicable for federal income taxes under the internal revenue code shall be deemed delinquent.

- Repeal secs. 71.775(4)(a)1. and 2., Wis. Stats.

- Amend sec. 71.775(4)(a), Wis. Stats., to read:

Each pass-through entity that is subject to the withholding under sub. (2) shall file an annual return that indicates the withholding amount paid to the state during the pass-through entity's taxable year. The entity shall file the return with the department no later than ~~the date~~ applicable for federal income taxes under the internal revenue code.

- Create sec. 71.775(4)(fm)3., Wis. Stats., to read:

The secretary of revenue determines that because of casualty, disaster or other unusual circumstances it is not equitable to impose interest.

- Amend sec. 71.84(2)(a), Wis. Stats., to read:

Except as provided in s. 71.29(7), in the case of any underpayment of estimated tax under s. 71.29 or 71.48 there shall be added to the aggregate tax for the taxable year interest at the rate of 12% per year on the amount of the underpayment for the period of the underpayment. For corporations, except as provided in par. (b), "period of the underpayment" means the time period from the due date of the installment until either the ~~15th day of the 3rd month beginning after the end of the taxable year~~ due date applicable for federal income taxes under the internal revenue code or the date of payment, whichever is earlier. If 90% of the tax shown on the return is not paid by the ~~15th day of the 3rd month following the close of the taxable year~~ date applicable for federal income taxes under the internal revenue code, the difference between that amount and the estimated taxes paid, along with any interest due, shall accrue delinquent interest under s.71.91(1)(a).

- Amend sec. 71.84(2)(c), Wis. Stats., to read:



If a refund under s. 71.29(3m) results in an income or franchise tax liability that is greater than the amount of estimated taxes paid in reduced by the amount of the refund, the taxpayer shall add to the aggregate tax for the taxable year interest at an annual rate of 12% on the amount of the unpaid tax liability for the period beginning on the date the refund is issued and ending on the 15<sup>th</sup> day of the 3<sup>rd</sup> month beginning after the end of the taxable year date applicable for federal income taxes under the internal revenue code, or the date the tax liability is paid, whichever is earlier.

#### **EFFECTIVE DATE AND/OR INITIAL APPLICABILITY**

Effective Date: Taxable years beginning after December 31, 2016.

#### **INTERESTED/AFFECTED PARTIES**

All partnerships and corporations filing taxes in Wisconsin.

#### **DOR CONTACT PERSON**

Diane Hardt, Division Administrator  
(608) 266-6798  
[diane.hardt@revenue.wi.gov](mailto:diane.hardt@revenue.wi.gov)

#### **PREPARED BY**

Craig Kvammen

## Pleviak, Krista

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**From:** Coenen, Scott  
**Sent:** Friday, January 06, 2017 3:35 PM  
**To:** Pleviak, Krista  
**Cc:** Loneragan, Sandy  
**Subject:** FW: LRB-1403/P1 Response/Changes

Hey Krista,

Below are a couple of changes we're making to the draft relating to due dates for income and franchise tax returns. There are also responses to your notes included.

I know you guys are very busy so we pushed back our timeline on this a little bit. We're still hoping to circulate it early next week. I really appreciate you getting the first draft over to us so soon.

I have copied Sandy Loneragan in Rep. Dale Kooyenga's office, he will be taking the lead in the Assembly on this legislation.

Thank you!

### Analysis

- Section 2, Note 1: Agree
- Section 2, Note 2: An amendment to sub. (1m) is not necessary
- Section 4, Line 6: Change to "71.29 (8) (a) The ~~3<sup>rd</sup>~~ 4<sup>th</sup> month of the taxable year except taxable years ending in March shall be the 3<sup>rd</sup> month of the taxable year."
- Section 4, Note: No, it is preferred to prescribe payment dates by law, without regards to return due dates.
- Section 9, Note: No, it is preferred to prescribe payment dates by law, without regards to return due dates.
- Section 12, Lines 21-22: Remove deletion and insertion as it is not necessary. Estimated taxes could be "paid" by someone other than the taxpayer on behalf of the taxpayer.
- Section 13: If this bill will pass before March 15, change the applicability date to January 1, 2016 so that it applies to 2016 tax returns filed in March and April of 2017, and is the same as the IRS.

~Scott



State of Wisconsin  
2017 - 2018 LEGISLATURE

P2  
LRB-1403/P1  
KRP:amn

IN: 01/09/17  
DUE: 01/10/17 (Tues)  
H

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SA ✓  
PWF ✓

RMR

Regen ✓

1 **AN ACT to repeal** 71.775 (4) (a) 1. and 71.775 (4) (a) 2.; **to renumber and amend**  
2 71.775 (4) (a) (intro.); **to amend** 71.20 (1), 71.24 (1), 71.24 (9) (a), 71.29 (8) (a),  
3 71.44 (1) (a), 71.44 (4) (b), 71.84 (2) (a) and 71.84 (2) (c); and **to create** 71.775  
4 (4) (fm) 3. of the statutes; **relating to:** due dates for filing income and franchise  
5 tax returns, paying estimated income and franchise tax installment payments,  
6 and filing withholding tax returns.

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

This bill changes the due dates for certain entities to file Wisconsin income or franchise tax returns, to pay the first installment of estimated income and franchise tax, and to file withholding tax returns.

Under the federal Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, the due dates for certain entities to file federal income tax returns were changed to the following:

1. For taxable years beginning after December 31, 2015, for a partnership, limited liability company, or tax-option corporation, March 15 or the 15th day of the third month following the close of the entity's fiscal year.
2. For taxable years beginning after December 31, 2015, for a corporation other than a tax-option corporation, except for a corporation that has a taxable year ending on June 30, April 15 or the 15th day of the fourth month following the close of the corporation's fiscal year.

3. For taxable years beginning after December 31, 2015, and ending before January 1, 2024, for a corporation, other than a tax-option corporation, that has a taxable year ending on June 30, the 15th day of the third month following the close of the corporation's fiscal year.

4. For taxable years beginning after December 31, 2025, for a corporation, other than a tax-option corporation, that has a taxable year ending on June 30, the 15th day of the fourth month following the close of the corporation's fiscal year.

The bill amends the due dates under Wisconsin law for those entities to file state income and franchise tax returns to conform to the federal income tax return filing due dates.

The bill also provides that a corporation that is required to pay periodic installments of estimated Wisconsin income or franchise tax must pay the first installment of the tax on or before the 15th day of the fourth month of the corporation's taxable year. Under current law, the first installment is due on the 15th day of the third month of the corporation's taxable year.

The bill also changes the due date for a partnership, limited liability company, tax-option corporation, estate, or trust (pass-through entity) to file a withholding tax return for amounts withheld from income of the pass-through entity that are distributable to a nonresident partner, member, shareholder, or beneficiary. The bill changes that due date to be the same as the due date for the pass-through entity to file its federal income tax return.

Under current law, if a pass-through entity underpays estimated withholding tax, the pass-through entity must pay interest on the amount of the underpayment for the period of the underpayment. The bill provides that no interest must be paid if the secretary of revenue determines that because of casualty, disaster, or other unusual circumstances it is not equitable to impose interest.

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

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

SECTION 1. 71.20 (1) of the statutes is amended to read:

71.20 (1) Every partnership shall furnish to the department a true and accurate statement, on or before April 15 of each year, ~~except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 4th month following the close of such fiscal year~~ the date on which the partnership is required to file for federal income tax purposes under the Internal Revenue Code, in such the manner and form and setting forth such the facts as the

INSERT  
A-1

for all corporations

1 department deems necessary to enforce this chapter. A partnership that is the owner  
2 of a single-owner entity that is disregarded as a separate entity under section 7701  
3 of the Internal Revenue Code shall include that entity's information on the owner's  
4 return under this subchapter. The statement shall be subscribed by one of the  
5 members partners of the partnership.

6 **SECTION 2.** 71.24 (1) of the statutes is amended to read:

7 71.24 (1) FILING RETURNS. Every corporation, ~~except corporations~~ a corporation  
8 all of whose income is exempt from taxation and except as provided in sub. (1m), shall  
9 furnish to the department a true and accurate statement, on or before ~~March 15~~ of  
10 ~~each year, except that returns for fiscal years ending on some other date than~~  
11 ~~December 31 shall be furnished on or before the 15th day of the 3rd month following~~  
12 ~~the close of such fiscal year and except that returns for less than a full taxable year~~  
13 ~~shall be furnished on or before the date applicable on which the corporation is~~  
14 ~~required to file for federal income taxes~~ tax purposes under the internal revenue code  
15 Internal Revenue Code, in such the manner and form and setting forth such the facts  
16 as the department deems necessary to enforce this chapter. Every corporation that  
17 is required to furnish a statement under this subsection and that has income that  
18 is not taxable under this subchapter shall include with its the corporation's  
19 statement a report that identifies each item of its the corporation's nontaxable  
20 income. The statement shall be subscribed by the president, vice president,  
21 treasurer, assistant treasurer, chief accounting officer, or any other officer duly  
22 authorized so to act. In the case of a return made for a corporation by a fiduciary, the  
23 fiduciary shall subscribe the return. The fact that an individual's name is subscribed  
24 on the return shall be prima facie evidence that the individual is authorized to  
25 subscribe the return on behalf of the corporation.

\*\*\*\*NOTE: Section 71.24 (1) applies to tax-option corporations, so the proposed new sub. (1n) is unnecessary and has not been included in this draft.

\*\*\*\*NOTE: Do you want to amend sub. (1m) so that it uses the same language as this provision?

1 SECTION 3. 71.24 (9) (a) of the statutes is amended to read:

2 71.24 (9) (a) Corporation franchise and income taxes not paid on or before the  
3 15th day of the 3rd month following the close of the taxable year deadline for filing  
4 returns described in sub. (1) or (1m) shall be deemed delinquent.

5 SECTION 4. 71.29 (8) (a) of the statutes is amended to read:

INSERT  
4-6 (6)

6 71.29 (8) (a) The 3rd 4th month of the taxable year.

\*\*\*\*NOTE: In this draft, the due date for a corporation to file state-income tax returns is linked to federal law, so that any future change in federal law also will apply to Wisconsin returns. However, the due date for a corporation to pay the first installment of quarterly estimated income or franchise taxes is not linked to any other law. Please let me know if you want the first installment always to be due on the date on which a corporation's state income tax return is due.

7 SECTION 5. 71.44 (1) (a) of the statutes is amended to read:

8 71.44 (1) (a) Every corporation, except corporations a corporation all of whose  
9 income is exempt from taxation and except as provided in sub. (1m), shall furnish to  
10 the department a true and accurate statement, on or before March 15 of each year,  
11 except that returns for fiscal years ending on some other date than December 31 shall  
12 be furnished on or before the 15th day of the 3rd month following the close of such  
13 fiscal year and except that returns for less than a full taxable year shall be furnished  
14 on or before the date applicable on which the corporation is required to file for federal  
15 income taxes tax purposes under the internal revenue code Internal Revenue Code,  
16 in such the manner and form and setting forth such the facts as the department  
17 deems necessary to enforce this chapter. Every corporation that is required to  
18 furnish a statement under this paragraph and that has income that is not taxable  
19 under this subchapter shall include with its the corporation's statement a report that

1 identifies each item of its the corporation's nontaxable income. The statement shall  
2 be subscribed by the president, vice president, treasurer, assistant treasurer, chief  
3 accounting officer, or any other officer duly authorized so to act. In the case of a  
4 return made for a corporation by a fiduciary, the fiduciary shall subscribe the return.  
5 The fact that an individual's name is subscribed on the return shall be prima facie  
6 evidence that the individual is authorized to subscribe the return on behalf of the  
7 corporation.

8 **SECTION 6.** 71.44 (4) (b) of the statutes is amended to read:

9 71.44 (4) (b) Corporation franchise and income taxes not paid on or before the  
10 15th day of the 3rd month following the close of the taxable year deadline for filing  
11 returns described in sub. (1) or (lm) shall be deemed delinquent.

12 **SECTION 7.** 71.775 (4) (a) (intro.) of the statutes is renumbered 71.775 (4) (a)  
13 and amended to read:

14 71.775 (4) (a) Each pass-through entity that is subject to the withholding  
15 under sub. (2) shall file an annual return that indicates the withholding amount paid  
16 to the state during the pass-through entity's taxable year. The pass-through entity  
17 shall file the return with the department ~~no later than:~~ on or before the date on which  
18 the pass-through entity is required to file for federal income tax purposes under the  
19 Internal Revenue Code.

20 **SECTION 8.** 71.775 (4) (a) 1. of the statutes is repealed.

21 **SECTION 9.** 71.775 (4) (a) 2. of the statutes is repealed.

\*\*\*\*NOTE: In this draft, the due date for a pass-through entity to file state  
withholding tax returns is linked to federal law, so that any future change in federal law  
also will apply to Wisconsin returns. However, in s. 71.775 (4) (cm) 1., Wis. Stat., the due  
date for a pass-through entity to pay the first installment of quarterly estimated  
withholding taxes is not linked to any other law. Please let me know if you want the first  
installment always to be due on the date on which a pass-through entity's state  
withholding tax return is due.

1           **SECTION 10.** 71.775 (4) (fm) 3. of the statutes is created to read:

2           71.775 (4) (fm) 3. The secretary of revenue determines that because of casualty,  
3           disaster, or other unusual circumstances it is not equitable to impose interest.

4           **SECTION 11.** 71.84 (2) (a) of the statutes is amended to read:

5           71.84 (2) (a) Except as provided in s. 71.29 (7), in the case of any underpayment  
6           of estimated tax by a corporation under s. 71.29 or 71.48, there shall be added to the  
7           aggregate tax for the taxable year interest at the rate of 12 percent per year on the  
8           amount of the underpayment for the period of the underpayment. ~~For corporations,~~  
9           ~~except as provided in par. (b)~~ In this paragraph, "period of the underpayment" means  
10          the time period from the due date of the installment until either the 15th day of the  
11          3rd month beginning after the end of the taxable year date on which the corporation  
12          is required to file for federal income tax purposes under the Internal Revenue Code  
13          or the date of payment, whichever is earlier. If 90 percent of the tax shown on the  
14          return is not paid by the 15th day of the 3rd month following the close of the taxable  
15          year date on which the corporation is required to file for federal income tax purposes  
16          under the Internal Revenue Code, the difference between that amount and the  
17          estimated taxes paid, along with any interest due, shall accrue delinquent interest  
18          under s. 71.91 (1) (a).

19          **SECTION 12.** 71.84 (2) (c) of the statutes is amended to read:

20          71.84 (2) (c) If a refund under s. 71.29 (3m) results in an income or franchise  
21          tax liability that is greater than the amount of estimated taxes paid in by the  
22          taxpayer when reduced by the amount of the refund, the taxpayer shall add to the  
23          aggregate tax for the taxable year interest at an annual rate of 12 percent on the  
24          amount of the unpaid tax liability for the period beginning on the date the refund is  
25          issued and ending on either the 15th day of the 3rd month beginning after the end



1 of the taxable year, date on which the taxpayer is required to file for federal income  
2 tax purposes under the Internal Revenue Code or the date the tax liability is paid,  
3 whichever is earlier.

INSERT  
7-5

4

**SECTION 13. Initial applicability.**

5

(1) This act first applies to taxable years beginning on January 1, 2017

6

(END)

**2017-2018 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1403/P2ins  
KRP:amn

**INSERT A-1**

*3<sup>rd</sup>*  
, except that, if the corporation's taxable year ends in March, the first installment must be paid in the 3<sup>rd</sup> month of the corporation's taxable year

**(END INSERT A-1)**

**INSERT 4-6**

1 , except that a taxpayer whose taxable year ends in March shall pay the installment  
2 in the 3<sup>rd</sup> month of the taxable year

**(END INSERT 4-6)**

**INSERT 7-5**

3 retroactively to taxable years beginning on January 1, 2016, except that if this  
4 subsection takes effect after March 14, 2017, this act first applies to taxable years  
5 beginning on January 1, 2017

**(END INSERT 7-5)**

## Pleviak, Krista

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**From:** Barman, Mike  
**Sent:** Tuesday, January 10, 2017 2:01 PM  
**To:** Pleviak, Krista  
**Subject:** Re-draft request ... LRB-1403/P3

Needs to go to a "/1" ... thanks.

Needs a companion bill drafted?

Thanks,  
MB

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**From:** Coenen, Scott  
**Sent:** Tuesday, January 10, 2017 1:57 PM  
**To:** LRB.Legal <lrblegal@legis.wisconsin.gov>  
**Cc:** Lonergan, Sandy <Sandy.Lonergan@legis.wisconsin.gov>  
**Subject:** RE: Draft review: LRB -1403/P3

Hello,

This looks great. We are hoping to jacket this for Senate and Assembly introduction (Marklein-Kooyenga) as soon as possible.

Thanks so much!

~Scott

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**From:** LRB.Legal  
**Sent:** Tuesday, January 10, 2017 9:47 AM  
**To:** Sen.Marklein <[Sen.Marklein@legis.wisconsin.gov](mailto:Sen.Marklein@legis.wisconsin.gov)>  
**Subject:** Draft review: LRB -1403/P3

**Following is the PDF version of draft LRB -1403/P3.**



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-1403/P3  
KRP:amn

W: 01/10/17  
DUE: TODAY (H)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

NO CHANGES

1 AN ACT *to repeal* 71.775 (4) (a) 1. and 71.775 (4) (a) 2.; *to renumber and amend*  
2 71.775 (4) (a) (intro.); *to amend* 71.20 (1), 71.24 (1), 71.24 (9) (a), 71.29 (8) (a),  
3 71.44 (1) (a), 71.44 (4) (b), 71.84 (2) (a) and 71.84 (2) (c); and *to create* 71.775  
4 (4) (fm) 3. of the statutes; **relating to:** due dates for filing income and franchise  
5 tax returns, paying estimated income and franchise tax installment payments,  
6 and filing withholding tax returns.

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

This bill changes the due dates for certain entities to file Wisconsin income or franchise tax returns, to pay the first installment of estimated income and franchise tax, and to file withholding tax returns.

Under the federal Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, the due dates for certain entities to file federal income tax returns were changed to the following:

1. For taxable years beginning after December 31, 2015, for a partnership, limited liability company, or tax-option corporation, March 15 or the 15th day of the third month following the close of the entity's fiscal year.

2. For taxable years beginning after December 31, 2015, for a corporation other than a tax-option corporation, except for a corporation that has a taxable year ending on June 30, April 15 or the 15th day of the fourth month following the close of the corporation's fiscal year.

3. For taxable years beginning after December 31, 2015, and ending before January 1, 2024, for a corporation, other than a tax-option corporation, that has a taxable year ending on June 30, the 15th day of the third month following the close of the corporation's fiscal year.

4. For taxable years beginning after December 31, 2025, for a corporation, other than a tax-option corporation, that has a taxable year ending on June 30, the 15th day of the fourth month following the close of the corporation's fiscal year.

The bill amends the due dates under Wisconsin law for those entities to file state income and franchise tax returns to conform to the federal income tax return filing due dates.

The bill also provides that a corporation that is required to pay periodic installments of estimated Wisconsin income or franchise tax must pay the first installment of the tax on or before the 15th day of the fourth month of the corporation's taxable year, except that, if the corporation's taxable year ends in March, the first installment must be paid in the third month of the corporation's taxable year. Under current law, the first installment for all corporations is due on the 15th day of the third month of the corporation's taxable year.

The bill also changes the due date for a partnership, limited liability company, tax-option corporation, estate, or trust (pass-through entity) to file a withholding tax return for amounts withheld from income of the pass-through entity that are distributable to a nonresident partner, member, shareholder, or beneficiary. The bill changes that due date to be the same as the due date for the pass-through entity to file its federal income tax return.

Under current law, if a pass-through entity underpays estimated withholding tax, the pass-through entity must pay interest on the amount of the underpayment for the period of the underpayment. The bill provides that no interest must be paid if the secretary of revenue determines that because of casualty, disaster, or other unusual circumstances it is not equitable to impose interest.

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

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

1           **SECTION 1.** 71.20 (1) of the statutes is amended to read:  
2           71.20 (1) Every partnership shall furnish to the department a true and  
3 accurate statement, on or before ~~April 15 of each year, except that returns for fiscal~~  
4 ~~years ending on some other date than December 31 shall be furnished on or before~~  
5 ~~the 15th day of the 4th month following the close of such fiscal year~~ the date on which  
6 the partnership is required to file for federal income tax purposes under the Internal

1 Revenue Code, in such the manner and form and setting forth such the facts as the  
2 department deems necessary to enforce this chapter. A partnership that is the owner  
3 of a single-owner entity that is disregarded as a separate entity under section 7701  
4 of the Internal Revenue Code shall include that entity's information on the owner's  
5 return under this subchapter. The statement shall be subscribed by one of the  
6 ~~members~~ partners of the partnership.

7 **SECTION 2.** 71.24 (1) of the statutes is amended to read:

8 71.24 (1) FILING RETURNS. Every corporation, ~~except corporations~~ a corporation  
9 all of whose income is exempt from taxation and except as provided in sub. (1m), shall  
10 furnish to the department a true and accurate statement, on or before ~~March 15 of~~  
11 ~~each year, except that returns for fiscal years ending on some other date than~~  
12 ~~December 31 shall be furnished on or before the 15th day of the 3rd month following~~  
13 ~~the close of such fiscal year and except that returns for less than a full taxable year~~  
14 ~~shall be furnished on or before the date applicable~~ on which the corporation is  
15 required to file for federal income taxes tax purposes under the internal revenue code  
16 Internal Revenue Code, in such the manner and form and setting forth such the facts  
17 as the department deems necessary to enforce this chapter. Every corporation that  
18 is required to furnish a statement under this subsection and that has income that  
19 is not taxable under this subchapter shall include with its the corporation's  
20 statement a report that identifies each item of its the corporation's nontaxable  
21 income. The statement shall be subscribed by the president, vice president,  
22 treasurer, assistant treasurer, chief accounting officer, or any other officer duly  
23 authorized so to act. In the case of a return made for a corporation by a fiduciary, the  
24 fiduciary shall subscribe the return. The fact that an individual's name is subscribed

1 on the return shall be prima facie evidence that the individual is authorized to  
2 subscribe the return on behalf of the corporation.

3 **SECTION 3.** 71.24 (9) (a) of the statutes is amended to read:

4 71.24 (9) (a) Corporation franchise and income taxes not paid on or before the  
5 ~~15th day of the 3rd month following the close of the taxable year~~ deadline for filing  
6 returns described in sub. (1) or (1m) shall be deemed delinquent.

7 **SECTION 4.** 71.29 (8) (a) of the statutes is amended to read:

8 71.29 (8) (a) The ~~3rd~~ 4th month of the taxable year, except that a taxpayer  
9 whose taxable year ends in March shall pay the installment in the 3rd month of the  
10 taxable year.

11 **SECTION 5.** 71.44 (1) (a) of the statutes is amended to read:

12 71.44 (1) (a) Every corporation, ~~except corporations~~ a corporation all of whose  
13 income is exempt from taxation and except as provided in sub. (1m), shall furnish to  
14 the department a true and accurate statement, on or before ~~March 15 of each year,~~  
15 ~~except that returns for fiscal years ending on some other date than December 31 shall~~  
16 ~~be furnished on or before the 15th day of the 3rd month following the close of such~~  
17 ~~fiscal year and except that returns for less than a full taxable year shall be furnished~~  
18 ~~on or before the date applicable on which the corporation is required to file for federal~~  
19 ~~income taxes~~ tax purposes under the ~~internal revenue code~~ Internal Revenue Code,  
20 in ~~such~~ the manner and form and setting forth ~~such~~ the facts as the department  
21 deems necessary to enforce this chapter. Every corporation that is required to  
22 furnish a statement under this paragraph and that has income that is not taxable  
23 under this subchapter shall include with ~~its~~ the corporation's statement a report that  
24 identifies each item of ~~its~~ the corporation's nontaxable income. The statement shall  
25 be subscribed by the president, vice president, treasurer, assistant treasurer, chief

1 accounting officer, or any other officer duly authorized so to act. In the case of a  
2 return made for a corporation by a fiduciary, the fiduciary shall subscribe the return.  
3 The fact that an individual's name is subscribed on the return shall be prima facie  
4 evidence that the individual is authorized to subscribe the return on behalf of the  
5 corporation.

6 SECTION 6. 71.44 (4) (b) of the statutes is amended to read:

7 71.44 (4) (b) Corporation franchise and income taxes not paid on or before the  
8 15th day of the 3rd month following the close of the taxable year deadline for filing  
9 returns described in sub. (1) or (lm) shall be deemed delinquent.

10 SECTION 7. 71.775 (4) (a) (intro.) of the statutes is renumbered 71.775 (4) (a)  
11 and amended to read:

12 71.775 (4) (a) Each pass-through entity that is subject to the withholding  
13 under sub. (2) shall file an annual return that indicates the withholding amount paid  
14 to the state during the pass-through entity's taxable year. The pass-through entity  
15 shall file the return with the department no later than: on or before the date on which  
16 the pass-through entity is required to file for federal income tax purposes under the  
17 Internal Revenue Code.

18 SECTION 8. 71.775 (4) (a) 1. of the statutes is repealed.

19 SECTION 9. 71.775 (4) (a) 2. of the statutes is repealed.

20 SECTION 10. 71.775 (4) (fm) 3. of the statutes is created to read:

21 71.775 (4) (fm) 3. The secretary of revenue determines that because of casualty,  
22 disaster, or other unusual circumstances it is not equitable to impose interest.

23 SECTION 11. 71.84 (2) (a) of the statutes is amended to read:

24 71.84 (2) (a) Except as provided in s. 71.29 (7), in the case of any underpayment  
25 of estimated tax by a corporation under s. 71.29 or 71.48, there shall be added to the



1 aggregate tax for the taxable year interest at the rate of 12 percent per year on the  
2 amount of the underpayment for the period of the underpayment. ~~For corporations,~~  
3 ~~except as provided in par. (b)~~ In this paragraph, “period of the underpayment” means  
4 the time period from the due date of the installment until either the ~~15th day of the~~  
5 ~~3rd month beginning after the end of the taxable year~~ date on which the corporation  
6 is required to file for federal income tax purposes under the Internal Revenue Code  
7 or the date of payment, whichever is earlier. If 90 percent of the tax shown on the  
8 return is not paid by the ~~15th day of the 3rd month following the close of the taxable~~  
9 ~~year~~ date on which the corporation is required to file for federal income tax purposes  
10 under the Internal Revenue Code, the difference between that amount and the  
11 estimated taxes paid, along with any interest due, shall accrue delinquent interest  
12 under s. 71.91 (1) (a).

13 **SECTION 12.** 71.84 (2) (c) of the statutes is amended to read:

14 71.84 (2) (c) If a refund under s. 71.29 (3m) results in an income or franchise  
15 tax liability that is greater than the amount of estimated taxes paid ~~in~~ when reduced  
16 by the amount of the refund, the taxpayer shall add to the aggregate tax for the  
17 taxable year interest at an annual rate of 12 percent on the amount of the unpaid tax  
18 liability for the period beginning on the date the refund is issued and ending on either  
19 ~~the 15th day of the 3rd month beginning after the end of the taxable year,~~ date on  
20 which the taxpayer is required to file for federal income tax purposes under the  
21 Internal Revenue Code or the date the tax liability is paid, whichever is earlier.

22 **SECTION 13. Initial applicability.**



**Milford, Renae**

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**From:** Coenen, Scott  
**Sent:** Tuesday, January 10, 2017 2:28 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1403/1

Please Jacket LRB -1403/1 for the SENATE.