

2017 DRAFTING REQUEST**Assembly Substitute Amendment (ASA-AB259)**

For: **Melissa Sargent (608) 266-0960** Drafter: **kpleviak**
 By: **Britt** Secondary Drafters:
 Date: **2/12/2018** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Sargent@legis.wisconsin.gov**
 Carbon copy (CC) to: **krista.pleviak@legis.wisconsin.gov**
joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Reliance by a taxpayer on past audits by the Department of Revenue

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kpleviak 2/12/2018	wjackson 2/12/2018			
/P1	kpleviak 2/13/2018		lparisi 2/12/2018		
/1		eweiss 2/13/2018	dwalker 2/13/2018	dwalker 2/13/2018	

FE Sent For:

<END>

Pleviak, Krista

From: Cudaback, Britt
Sent: Monday, February 12, 2018 9:46 AM
To: Pleviak, Krista
Subject: RE: Amendment to AA1-AB259

Krista,

Let's make this amendment a substitute amendment incorporating both AA1 and the changes I sent to you last week. Also, one other note is that the amendment should include "clear and convincing" standard as I noted to you last week except with regard to section 7m relating to audit reliance. Page 2 line 8 should use "substantial evidence" instead.

Then can we also get a simple amendment to the substitute that would keep the status quo for instances in which a taxpayer did not give DOR adequate and accurate information (i.e. the amendment should remove the audit reliance provisions from AA1 and remove AB 259's proposed changes to Wis. Stat. s. 73.16(3)(b)).

Hopefully this all makes sense, but if not, let me know.

Best,

Britt Cudaback

--
Britt Cudaback
Legislative Aide
Office of Representative Melissa Sargent
321 West | Wisconsin State Capitol

~~**From:** Pleviak, Krista
Sent: Monday, February 12, 2018 8:40 AM
To: Cudaback, Britt <Britt.Cudaback@legis.wisconsin.gov>
Subject: RE: Amendment to AA1-AB259~~

~~Britt:~~

~~I was out of the office on Friday, so I'm just seeing this now. However, it should not be a problem for me to get this out to you today.~~

~~Krista~~

~~**Krista R. Pleviak**
Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266 - 7290
krista.pleviak@legis.wisconsin.gov~~

Pleviak, Krista

From: Pleviak, Krista
Sent: Monday, February 12, 2018 9:38 AM
To: Cudaback, Britt
Subject: RE: Amendment to AA1-AB259

OK. I'll hold off until I hear from you.

Krista R. Pleviak
Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266 - 7290
krista.pleviak@legis.wisconsin.gov

From: Cudaback, Britt
Sent: Monday, February 12, 2018 9:09 AM
To: Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>
Subject: RE: Amendment to AA1-AB259

Krista,

That's actually perfect. I might have one additional change to include in the amendment but I'm waiting to hear back from Leg. Council. I'll let you know when I hear back whether we're going to include the change or draft a separate amendment.

Best,

Britt Cudaback

Britt Cudaback
Legislative Aide
Office of Representative Melissa Sargent
321 West | Wisconsin State Capitol

From: Pleviak, Krista
Sent: Monday, February 12, 2018 8:40 AM
To: Cudaback, Britt <Britt.Cudaback@legis.wisconsin.gov>
Subject: RE: Amendment to AA1-AB259

Britt:

I was out of the office on Friday, so I'm just seeing this now. However, it should not be a problem for me to get this out to you today.

Krista

Krista R. Pleviak

Legislative Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 266 - 7290
krista.pleviak@legis.wisconsin.gov

From: Cudaback, Britt
Sent: Thursday, February 08, 2018 7:59 PM
To: Pleviak, Krista <Krista.Pleviak@legis.wisconsin.gov>
Subject: Amendment to AA1-AB259

Krista,

Hope this email finds you well. Representative Sargent would like a simple amendment drafted to amend AA1 to AB259 to keep the "clear and convincing evidence" standard as exists under current law. If you have any questions, please let us know. We are expecting to have an executive session on AB 259 next Wednesday, so would need it Monday, if possible. Have a great weekend!

Best,

Britt Cudaback

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Britt Cudaback
Legislative Aide
Office of Representative Melissa Sargent
321 West | Wisconsin State Capitol



State of Wisconsin
2017 - 2018 LEGISLATURE

PI
LRBs0316/P
KRP:....
Wij

Today

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 259**

gc

1 **AN ACT** ...; relating to: reliance by a taxpayer on past audits by the Department
2 of Revenue.

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

3 **SECTION 1.** 73.16 (3) (b) of the statutes is amended to read:

4 73.16 (3) (b) ~~This subsection~~ Paragraph (a) does not apply to any period
5 associated with an audit determination, if the period begins after the promulgation
6 of a rule, dissemination of written guidance to the public or to the person who is
7 subject to the audit determination, the effective date of a statute, or the date on which
8 a tax appeals commission or court decision becomes final and conclusive and if the
9 rule, guidance, statute, or decision imposes the liability as a result of the tax issue
10 described in par. (a) 1. This subsection does not apply to any period associated with

1 ~~an audit determination if the taxpayer did not give the department employee~~
2 ~~adequate and accurate information regarding the tax issue in the prior audit~~
3 ~~determination or if the tax issue was settled in the prior audit determination by a~~
4 ~~written agreement between the department and the taxpayer.~~

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

5 **SECTION 2.** 73.16 (3) (c) of the statutes is created to read:

6 73.16 (3) (c) Paragraph (a) does not apply to any period associated with an audit
7 determination if any of the following applies:

8 1. The department establishes by clear and satisfactory evidence that the
9 taxpayer provided incomplete or false information relevant to the tax issue in the
10 prior audit determination.

substantial

11 2. The tax issue was settled in the prior audit determination by a written
12 agreement between the department and the taxpayer that was entered into before
13 the effective date of this subdivision [LRB inserts date].

14 3. The tax issue was settled in the prior audit determination by a written
15 agreement between the department and the taxpayer that was entered into on or
16 after the effective date of this subdivision [LRB inserts date], and in which the
17 parties acknowledged that the department did not adopt the taxpayer's position on
18 the tax issue.

19 **SECTION 3. Initial applicability.**

20 (1) RELIANCE ON PAST AUDITS. This act first applies to an audit determination
21 issued on the effective date of this subsection, regardless of when a prior audit
22 determination was issued.

STET

23 (END)

Pleviak, Krista

From: Rep.Sargent
Sent: Tuesday, February 13, 2018 8:58 AM
To: Pleviak, Krista
Subject: FW: Draft review: LRB s0316/P1
Attachments: 17s0316/P1.pdf

Krista,

Can we get this amendment drafted for introduction and jacketed ASAP? Thanks!

Best,

Britt Cudaback

--

Britt Cudaback
Legislative Aide
Office of Representative Melissa Sargent
321 West | Wisconsin State Capitol

From: LRB.Legal
Sent: Monday, February 12, 2018 3:12 PM
To: Rep.Sargent <Rep.Sargent@legis.wisconsin.gov>
Subject: Draft review: LRB s0316/P1

Following is the PDF version of draft LRB s0316/P1.



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0316/P1
KRP:wlj

NOW

AMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY SUBSTITUTE AMENDMENT ,

TO ASSEMBLY BILL 259

NO CHANGES

SA ✓
PWF ✓

1 AN ACT *to amend* 73.16 (3) (b); and *to create* 73.16 (3) (c) of the statutes;
2 relating to: reliance by a taxpayer on past audits by the Department of
3 Revenue.

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

4 SECTION 1. 73.16 (3) (b) of the statutes is amended to read:

5 73.16 (3) (b) ~~This subsection~~ Paragraph (a) does not apply to any period
6 associated with an audit determination, if the period begins after the promulgation
7 of a rule, dissemination of written guidance to the public or to the person who is
8 subject to the audit determination, the effective date of a statute, or the date on which
9 a tax appeals commission or court decision becomes final and conclusive and if the
10 rule, guidance, statute, or decision imposes the liability as a result of the tax issue

1 described in par. (a) 1. ~~This subsection does not apply to any period associated with~~
2 ~~an audit determination if the taxpayer did not give the department employee~~
3 ~~adequate and accurate information regarding the tax issue in the prior audit~~
4 ~~determination or if the tax issue was settled in the prior audit determination by a~~
5 ~~written agreement between the department and the taxpayer.~~

6 **SECTION 2.** 73.16 (3) (c) of the statutes is created to read:

7 73.16 (3) (c) Paragraph (a) does not apply to any period associated with an audit
8 determination if any of the following applies:

9 1. The department establishes by substantial evidence that the taxpayer
10 provided incomplete or false information relevant to the tax issue in the prior audit
11 determination.

12 2. The tax issue was settled in the prior audit determination by a written
13 agreement between the department and the taxpayer that was entered into before
14 the effective date of this subdivision [LRB inserts date].

15 3. The tax issue was settled in the prior audit determination by a written
16 agreement between the department and the taxpayer that was entered into on or
17 after the effective date of this subdivision [LRB inserts date], and in which the
18 parties acknowledge that the department did not adopt the taxpayer's position on the
19 tax issue.

20 **SECTION 3. Initial applicability.**

21 (1) RELIANCE ON PAST AUDITS. This act first applies to an audit determination
22 issued on the effective date of this subsection, regardless of when a prior audit
23 determination was issued.

24 (END)