

Report From Agency

Section 227.19 Report
July 11, 2023

Clearinghouse Rule 23-028 STATE OF WISCONSIN DEPARTMENT OF REVENUE

REPORT TO THE LEGISLATURE

In the matter of rulemaking proceedings before the Wisconsin Department of Revenue, creating Chapter Tax 10 relating to: unclaimed property and creating a period of time by which virtual currency must be converted to U.S. currency prior to turning over to the Wisconsin Unclaimed Property Program.

Proposed Rule

The proposed rule revisions and analysis are attached.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Basis and Purpose of the Proposed Rule

Section 177.016, Stats., provides the department specific statutory rule-making authority to administer the Wisconsin Unclaimed Property Program. Unclaimed property is a financial asset that hasn't had owner activity for a period of one year or more and the holder of the asset is not able to contact the owner. Owners of unclaimed property can be individuals or businesses. Holders of unclaimed property are often businesses (banks, credit card companies, insurance companies, etc.) but can also be employers (unclaimed wages) or governments (other states, local governments). The Unclaimed Property Program administered by the department aims to reconnect owners with their unclaimed property.

[2021 Wis. Act 87](#) made many changes to Wisconsin's unclaimed property laws to be uniform with other states. This act clarified that virtual currency is subject to unclaimed property laws but is only required to be reported and delivered to the department if the holder can convert the virtual currency to U.S. currency prior to delivery to the department. This proposed rule establishes a 30-day period of time that virtual currency must be converted to U.S. currency prior to being delivered to the department as unclaimed property.

Public Hearing

A public hearing was held via Microsoft Teams on July 11, 2023. No one appeared offering testimony at the hearing. Six people registered to attend the hearing and three

members of the public listened to the proceedings. Wisconsin Eye livestreamed the hearing.

Summary of Public Comments and the Department's Responses, and Explanation of Any Resulting Modifications to the Proposed Rules

Economic Impact Analysis (EIA): A public comment period for the EIA was held from February 27, 2023 to March 21, 2023. No public comments were received regarding the EIA.

Public Hearings and Comments: The public comment period for the draft rule began when the rule was posted in the administrative rules register on June 26, 2023 and ended on July 11, 2023. One comment was received during the public comment period. No comments were received at the virtual public hearing on July 11, 2023.

Public Comment Summary: The public comment received by the department mentioned that there are additional issues with virtual currency regarding secured accounts and exchange liquidity. The commenter suggested a 180-day liquidation period and a 2-to-3-year sunset.

Department Response to Comments: The department reached out to the commenter via email on July 11, 2023 after the public hearing with several clarifying questions regarding this comment. As of the filing of this report, the commenter has not yet responded.

The department agrees that there are concerns with virtual currency that are not addressed regarding secured or encrypted accounts, but these concerns would be best addressed by state statute and not via rule. The department specifically chose a shorter amount of time for conversion to avoid large fluctuations in the converted value of virtual currency. The department believes this is in the best interest of the holders of the virtual currency and the property owner.

Legislative Council Staff Recommendations and the Department's Response

The Legislative Council Rules Clearing House submitted comments on form, style and placement in the administrative code, adequacy of references, clarity grammar, and clarity, grammar, punctuation, and use of plain language. Changes were made to the proposed rule to address all recommendations by the Rules Clearinghouse.

Regulatory Flexibility Analysis

The rule is not expected to have an impact on small businesses.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this proposal.