



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBs0316/1  
KRP:wlj

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 259**

February 13, 2018 - Offered by Representatives SARGENT, C. TAYLOR, OHNSTAD,  
DOYLE and SPREITZER.

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  
11            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.~~

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 substantial evidence that the taxpayer  
9 provided incomplete or false information relevant to the tax issue in the prior audit  
10 determination.

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 acknowledge that the department did not adopt the taxpayer's position on the  
18 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.

23 (END)