

Wisconsin Department of

**Revenue**

# **State Debt Collection Agreement**

Updated January 2024

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## AGENCY AGREEMENT FOR STATE DEBT COLLECTION

This agreement between the \_\_\_\_\_, (hereafter referred to as “agency”) and the Wisconsin Department of Revenue (hereafter referred to as “department”) sets forth the requirements and expectations relating to state debt collection (SDC) services.

### STATUTORY AUTHORITY

The department is authorized by state law ([sec. 71.93\(8\)](#), Wis. Stats.) to enter into a written agreement to collect any amount owed to the agency.

### DUTIES OF THE AGENCY

1. Debts sent to the department for collection must be:
  - Greater than \$50
  - At least 90 days past due
  - Reduced to a judgment or the debtor was provided with reasonable notice and an opportunity to be heard regarding the validity of the debt
  - Beyond any appeal periods, and all disputes must be resolved prior to referral of debt to the department
  - No older than 20 years from the origination/assessment date
2. Debts do not qualify for submission if any of the following apply:
  - The agency is negotiating a payment plan
  - The debtor has an active payment plan in good standing
  - For Restitution debts, the debtor has an active payment plan in good standing with the original debt holder
  - The debtor has filed for bankruptcy
  - The debtor is deceased
  - The debtor objected to the basis of the debt and the agency is responding to the objection
  - The debt origination/assessment date is older than 20 years
3. The agency shall not certify the same debt to the Tax Refund Intercept Program (TRIP) and to the SDC concurrently. Debts certified to SDC intercept tax overpayments under sec. [71.93\(3\)\(a\)](#), Wis. Stats.

4. The agency acknowledges that debtors may attempt to discharge their debts by accord and satisfaction without paying the debt in full according to state law (see sec. [403.311](#), Wis. Stats.) To prevent such claims, the agency must:

Include a conspicuous statement to each debtor under state law (sec. [403.311\(3\)](#), Wis. Stats.), directing accord and satisfaction payments directly to your agency for acceptance or rejection, prior to referring the debt to the department. The agency agrees that the department shall not be liable for any damages or claims arising out of its handling of any accord and satisfaction claims.

5. At least 30 days prior to referral of the debt to the department, the agency shall send notice to the debtor of the agency's intention to refer the debt to the department for collection. The notice must include:

- Applicable state law (sec. [71.93 \(8\)](#), Wis. Stats.), which allows debt referral to the department for collections
- The nature and amount of the debt
- Identify the agency to whom the debt is owed
- Advise the debtor that collection costs will be assessed once the debt is referred to the department
- Include potential collection actions the department can take on behalf of the agency
- Language related to Accord and Satisfaction claims "Any communications concerning the validity or dispute of this debt, including an instrument tendered as full satisfaction of a debt must be sent to [designated person with your agency, office or place]"

6. The agency shall provide the following information in an electronic format using the department's online application or by file exchange using the department's prescribed file layout:

- New debts submitted to the department must contain the following information:
  - Legal name
  - Valid Social Security Number (SSN), Federal Employer Identification Number (FEIN) or WI issued Driver's License Number (DLN)
  - Unique personal identification number that is not the SSN (e.g., customer number)
  - Unique debt identification number (e.g., invoice number)
  - Original date the debt was assessed
  - A short debt description and a more detailed debt description used to aid in the collection process

- A debt may only be updated or recalled by the agency for the following reasons:
  - The debt was submitted in error. The agency agrees to contact the department prior to recalling a debt to discuss the action. The department will cease collection actions in progress.
  - Changing an estimated assessment to the actual amount due
  - Correcting a debt balance due to error on initial submission
  - Changing the debt balance for other administrative adjustment
- 7. Once a debt is referred to the department for collection, the agency shall discontinue billing statements, demand letters, and active collection efforts. The agency will direct all debtor calls or requests regarding collection of the debt to the department.
- 8. Once a debt is referred to the department for collection, the agency shall forward any payments received to the department for processing. The department collection fee must be paid even if the debtor sends full payment of the debt to the agency.
- 9. If the debt is compromised or settled by the agency, the agency shall contact the department to determine the amount owed to the department for the collection fee. The agency is responsible for the full collection fee, based on the original amount certified, when entering into a compromise or settlement agreement.
- 10. Correspondence and telephone inquiries received that relate to the validity of the debt shall be forwarded to the agency for a timely response. The agency must have resources available to assist debtors and department collectors with debt-related issues.
- 11. Once a debt is collected in full by the department, the debt is returned to the agency as satisfied. The agency shall not submit any changes to the department after the debt is satisfied. If the agency determines the debtor owed a lesser amount or the debt should have been adjusted, the agency shall refund the debtor the amount of overpayment received plus the department collection fee calculated at 15% of the amount overpaid, if appropriate. The department will not refund any paid collection to the debtor when a debt is satisfied.
- 12. A debt certified by the agency using the wrong SSN or DLN will be reversed by the department and returned to the agency. Any payments and refund setoffs that occur because of erroneous identification information will be reversed by the department. The agency shall be responsible for reimbursement of collection fees or unrecoverable amounts due to submitting a debt with incorrect identification information.
- 13. The agency shall be responsible and liable for any claims or lawsuits made against the department arising from collection of a debt that is alleged to be incorrect or not owed by the debtor.
- 14. The agency agrees to maintain the confidentiality of all accounts, correspondence, documents, and any other related information, which may be obtained from or furnished by the department in accordance with all applicable state and federal laws.

15. If a third party is used by the agency to manage the debts referred to the department, the third party must sign a Vendor Confidentiality and Non-Disclosure Agreement with the department and will be bound by the same confidentiality requirements.

Any unauthorized use or disclosure of such information, or inadequate procedures for safeguarding the confidentiality of such information, constitutes grounds for immediate termination of this agreement.

16. The agency shall review reports transmitted, reconcile accounts, and notify the department within 60 days of any discrepancies.

17. The agency shall have technical staff available to maintain electronic file layouts, electronic reports, and other requirements as needed. Agency and department contact information will be periodically updated.

## DUTIES OF THE DEPARTMENT

1. The department shall take all reasonable and cost-effective actions to collect referred debts. Collection efforts may include, but are not limited to:

- Identify assets available for satisfaction of debts
- Send demand letters
- Subpoena records
- Setoff refunds
- Negotiate and monitor payment plans
- Levy assets
- Certify wages

2. State agencies are required to send debts through SDC. Only the Secretary of the Department of Revenue may waive the referral of certain types of debts.

3. The department shall collect debts and assess interest in the same manner that it collects taxes and assesses interest according to state law (secs. [71.82\(2\)](#), [71.91](#), [71.92](#), and [73.03 \(20\)](#), Wis. Stats.)

4. The department shall add a collection fee to each debt referred for collection. The collection fee is reviewed periodically and may be adjusted up or down. The department will provide 30 days' notice to the agency prior to any fee adjustment.

5. The department shall apply payments made on delinquencies first to fees, then penalties and interest, with the balance applied to the principal. The department shall notify the agency and disburse payments monthly.

6. The department shall collect against debtors who owe multiple debts to various government entities. Proceeds collected shall be applied according to state law (sec. [71.93\(3\)](#), Wis. Stats.)

7. The department shall send periodic Statements of Account to the debtor.

8. If the agency requests interest on the debt, interest shall be posted monthly. Debtors may view account balances and make online payments using the department's My Tax Account online service.
9. The department may temporarily suspend collection action on an agency account if the debtor raises concerns regarding the validity of the debt that needs to be addressed by the agency. The debtor shall be advised that they must contact the agency within 30 days and that the department may resume collection action after 30 days unless the agency contacts the department to request additional time or recalls the debt.
10. If a payment, refund, or refundable credit is determined to be in error or is otherwise adjusted after posting to an agency debt, the department may reverse the credit and reduce the next monthly distribution by the adjusted amount.
11. The department may close out any debt with a balance that falls below \$20.00 and return the debt to the agency.
12. The department shall pursue debt collection until the debt is collected in full or the department has determined the debt to be uncollectible.
13. The department may pursue collection against the spouse of the debtor in accordance with Wisconsin marital property laws. When considering collection actions against a spouse, the department may take the following actions:
  - a. Contact the agency. When the department identifies that a debtor is married and the debt may have been incurred during the marriage, the department may contact the agency for additional information regarding the nature of the debt.
  - b. Contact the spouse. Prior to taking any collection action against a spouse, the department will send a notice providing an opportunity for the spouse to be heard regarding the ability to collect from the spouse.
14. The department shall suspend collection action on debts if the debtor files bankruptcy. It is the agency's responsibility to manage all bankruptcy matters. The agency must contact the department if they wish to recall a debt when bankruptcy has been filed.
  - a. If the bankruptcy is discharged, the department will contact the agency to review the debt for potential write off. If the debt survives bankruptcy, the agency must notify the department within 30 days to resume collection activity and provide the citation to the bankruptcy section (code/statutes) along with all relevant facts as to why the debt was not discharged.
  - b. If the bankruptcy is dismissed, the department will resume collection activity.
15. The department shall send the following files:
  - a. Debt Response File: The department shall respond to all new debt submissions with a response to notify the agency whether the debt was accepted or rejected.

- b. Transaction File: The department shall notify the agency monthly of credits posted to interest and principal and disburse payments through an ACH credit or state accounting system general ledger transfer.
  - c. Return Debt File: The department shall return debts to the agency monthly for the following reasons:
    - o The debt is satisfied
    - o The debt is uncollectible
    - o The debtor is deceased
    - o The debt balance is less than \$20
    - o The debtor's name and ID do not match DOR records
    - o The agency recalled the debt
  - d. Performance Analysis Report: The department shall report on its collection performance upon agency request.
16. The department shall have collectors available to assist debtors and the agency with debt-related issues.
17. The department shall resolve any debtor disputes pertaining to improper collection by the department.
18. The department shall have technical staff available to create and maintain electronic file layouts, electronic reports, and other requirements as needed. Agency and department contact information will be periodically updated.
19. The Secretary of the department shall be the final authority in the resolution of any interagency disputes regarding referral of debts.

### LEGAL REQUIREMENTS

This agreement is effective upon the signing below of the representatives of the department and agency. Amendments mutually agreed to by the authorized representatives of the agency and the department shall become effective when signed and dated as an ADDENDUM to this agreement. If allowed by state law, the agreement may be terminated upon a 60-day notice by either party.

Wisconsin Department of Revenue

Agency Name \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of January 30, 2024:

- SDC Program - sec. 71.93(8), Wis. Stats. (The 2009 Wisconsin Act 28 authorizes the State Debt Collection (SDC) program <https://docs.legis.wisconsin.gov/2009/related/acts/28/1808>)
- Hierarchy of payments - sec. 71.93(3), Wis. Stats., Refund Offset to SDC debt - sec. 71.93, Wis. Stats. (sections: 71.93(1)(a)2, 71.93(1)(a)3, 71.93(1)(a)4, 71.93(1)(a)5, or 71.93(1)(a)6, Wis. Stats.) Vendor Setoff: Vendor setoff - sec 71.93(b) and 71.935, [Wis. Stats.](#), authorizes the Department of Revenue to certify debts to the Department of Administration so that they may reduce a disbursement to the debtor by the amount of the debt.
- Lottery Setoff: Lottery prizes - sec. 565.30 (5), Wis. Stats., authorized the Department of Revenue to intercept lottery prize winnings greater than \$600 to be applied against the amount the taxpayer owes to state agencies.

Other statutes referenced in the guide:

Discharge of debts by accord and satisfaction - sec. 403.311, Wis. Stats Collection of debts and interest in same manner as tax - secs. 71.82(2), 71.91, 71.92, and 73.03 (20), Wis. Stats.) Provided is a List of statutes related to our [collection authorities](#).

Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date, that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2), Wis. Stats.