

**WISCONSIN DEPARTMENT OF REVENUE  
DIVISION OF INCOME, SALES, AND EXCISE TAX**

**NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

**SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

**DEADLINE FOR SUBMISSION**

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

<b>Document Number</b>	<b>Document Title</b>
<b>100152</b>	Heirship Claims - Common Questions

State of Wisconsin  
Department of Revenue

## Heirship Claims

**This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.**

1. When is a claim filed as an heir?
2. How do I file an heirship claim?
3. Is special documentation required?
4. What happens after I complete the Transfer by Affidavit form?
5. Do I have to submit the Transfer by Affidavit and take full responsibility for the property?
6. Why was my claim refund check less than I was expecting?
7. What is an escheated estate? Why do you have it?

---

### 1. **When is a claim filed as an heir?**

You file a claim as an heir when you are entitled through a legal determination to receive property of a deceased person.

### 2. **How do I file an heirship claim?**

Heirship claims must be filed on our website. Select the properties owned by the decedent, click on "Claim These Properties," and follow the instructions provided. You are the claimant, so be sure to include your own name, address and other information as appropriate.

### 3. **Is special documentation required?**

Yes, special documentation is required as follows:

- If the estate or trust is still open, we pay the estate or trust directly.
- A Transfer by Affidavit Form may be completed if the total value of the decedent's property subject to administration is less than \$50,000. The form **MUST** be notarized, only original forms will be accepted (Do NOT submit photocopies).
- A court order is required if the total value of the decedent's property subject to administration is \$50,000 or more. The court order should be from the appropriate court in the county where the decedent passed away. Funds will be paid as the court order dictates.

- For instructions and assistance regarding obtaining a court order visit the Wisconsin Court System website self-help page for Probate:  
<https://www.wicourts.gov/services/public/selfhelp/probate.htm>

#### 4. **What happens after I complete the Transfer by Affidavit form?**

As the person completing the form, you are accepting full responsibility for the decedent's property. You are also responsible for distributing the claim proceeds to the rightful heirs.

You are also responsible for any tax liability that may be incurred. For example, if there are stocks or mutual funds being sold that were titled to the decedent, you may receive a 1099-B or 1099-DIV as the claimant who received the funds.

#### 5. **Do I have to submit the Transfer by Affidavit and take full responsibility for the property?**

- No. You may obtain a court order from the appropriate court in the county the decedent passed away. Funds will be paid as the court order dictates.
- For instructions and assistance regarding obtaining a court order visit the Wisconsin Court System website self-help page for Probate:  
<https://www.wicourts.gov/services/public/selfhelp/probate.htm>

#### 6. **Why was my claim refund check less than I was expecting?**

Wisconsin statutes authorizes the department to collect debt for Wisconsin state agencies, counties, and municipalities, the federal governments (including the IRS), other states and federally recognized tribes. Your Notice of Claim Refund will provide details about the debts owed to other government agencies. These offsets cannot be appealed to the department's Unclaimed Property Unit; however, you should contact the collecting agency regarding the offset if you have questions

#### 7. **What is an escheated estate? Why do you have it?**

When someone dies without a will and known heirs, the property is turned over to the department. Heirs must get a court order from the probate court in the county that escheated the property to claim the funds. You have ten years to claim these funds.

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of December 5, 2019: Sections 71.17, 71.93, 177.01, 177.18, 177.24, 859.25, 863.27, 863.39 and 867.03, Wis. Stats., and 26 CFR §§ 1.6042-2 and 301.6042-1.

Laws enacted and in effect after December 5, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to December 5, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

### FOR QUESTIONS OR COMMENTS CONTACT:

WISCONSIN DEPARTMENT OF REVENUE

PO Box 8982

Madison, WI 53708-8982

Phone: (608) 264-4594

Email additional questions to [DORUnclaimedProperty@wisconsin.gov](mailto:DORUnclaimedProperty@wisconsin.gov)

Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

Guidance Document Number: 100152

December 5, 2019

[About Us](#) [Contact Us](#) [Employment](#) [Media Room](#) [Plain Language](#) [Privacy](#) [Legal Training](#)



Copyright © State of Wisconsin All Rights Reserved