

Fiscal Estimate Narratives

DOR 3/10/2017

LRB Number	17-1830/2	Introduction Number	SB-089	Estimate Type	Original
Description tax administration changes, the police and fire protection fee, defining restaurant for purposes of alcohol beverage regulation, lottery ticket couriers, background investigations of persons associated with the lottery, and providing a criminal penalty					

Assumptions Used in Arriving at Fiscal Estimate

ASSESSMENT ROLL LANGUAGE:

Current law refers to acts that occurred when the property assessment roll was on paper. The bill updates the language to reflect today's digital process. The bill also requires clerks to enter the property classification on the roll, consistent with current practices.

These provisions have no fiscal effect.

DEFINE "INVESTMENT" FOR CAPITAL GAINS DEFERRAL/EXCLUSION

For purposes of claiming a capital gains income tax deferral or exclusion based on investments in a qualified business, the bill includes a definition of "investment" as amounts paid to acquire stock or other ownership interest in a partnership, corporation, tax-option corporation, or limited liability company treated as a partnership or corporation. The bill also clarifies that a qualifying gain may not exceed the change in the fair market value of the investment during the holding period.

There is no fiscal effect for these clarifications because they reflect current administration of the law.

DEFINITION OF FOREIGN BUSINESS INCOME

Current law references section 861 (c) (1) (B) of the IRC for the definition of foreign business income. This section of the IRC was repealed without replacement in 2011 even though the treatment of active foreign business income did not change. This provision would replace the currently obsolete IRC reference with the verbatim language of the repealed IRC definition.

There is no fiscal effect for this provision because the definition language is identical to the prior IRC reference and matches current law administration.

EXTENSION AGREEMENTS BY DESIGNATED AGENTS

For federal purposes, a designated agent may sign an extension agreement for all members of a combined group. Current state law is unclear whether a designated agent of a combined group may validly sign an extension agreement for all members of a combined group. This bill provides a parallel ability in state law to federal law that provides a designated agent with this ability.

There is no fiscal effect for this provision.

REQUIRING FILING OF INFORMATION RETURNS TO CLAIM DEDUCTIONS FOR S-CORPORATIONS

Under current federal law, C-corporations, tax-option corporations, partnerships, and individuals are required to file certain information returns for payments of wages, salaries, commissions, bonuses, and rent payments. Federal law allows these businesses to deduct the expenses for income tax purposes if the taxpayer files the information returns related to the expenses. Similarly, Wisconsin law allows the deductions only if the information returns are filed by C-corporations, partnerships, and individuals. There is no similar requirement for tax-option corporations to file the information returns in order to claim the deductions. The bill would extend the requirement to tax-option corporations.

The department expects the provision to have a minimal fiscal effect as most tax-option corporations

properly file information returns.

PROPERTY TAX CHARGEBACKS:

The bill lowers the per property threshold from \$500 to \$250 and limits chargebacks to the five most recent assessment years, except in the case of a court ruling.

The department expects the provision to have a minimal fiscal effect as 2015 Wisconsin Act 317 created a more automatic process for chargebacks, decreasing the need for extended recordkeeping.

SEPARATE SALES TRANSACTIONS

The bill provides that tangible personal property transferred by a service provider in conjunction with the sale of a service is not considered incidental to the sale if seller charges a separate and optional fee for the transferred property. The bill specifies that taxability of a separate and optional fee is determined separately from charges for other products.

The provision is not expected to have a fiscal effect based on current DOR administration of related charges.

SALES AND USE TAX EXEMPTION FOR PATIENT HEALTH CARE RECORDS

The bill creates a sales/use tax exemption for patient health care records sold to the patient or someone the patient authorized to receive such records, consistent with the Tax Appeals Commission's decision in Cannon & Dunphy, S.C., vs. Wisconsin Department of Revenue.

The provision does not have a fiscal effect as the exemption matches the department's treatment of health care records following the Commission's decision.

TELECOMMUNICATIONS SERVICES OFFERED BY LODGING PROVIDERS

The bill specifies that lodging providers are the consumers of telecommunications, internet access, cable television, and video services provided to their customers.

The provision has no fiscal effect as it matches the department's current practices.

SALES AND USE TAX EXEMPTION FOR FUEL AND ELECTRICITY CONSUMED IN MANUFACTURING

The bill specifies that the current law exemption for fuel and electricity consumed in manufacturing only applies to fuel and electricity used directly in manufacturing.

The provision has no fiscal effect as it matches the administration of current law's treatment of the exemption.

COUNTY SALES TAX TERMINATION TECHNICAL CHANGES

The bill corrects technical deficiencies related to the end of a county sales tax with respect to refunds and audits. The changes are consistent with current law regarding the end of the professional football stadium sales tax.

The department expects the provision to have a minimal fiscal effect when planned sunseting of certain county sales taxes occurs, beginning in 2021.

MFL PAPER FILES REDUCTION:

Current law requires Department of Natural Resources (DNR) to provide paper copies of Managed Forest Law (MFL) Orders to both the DOR Local Government Services Bureau and the supervisor of assessments—the Equalization Bureau. The bill deletes the requirement to provide the orders to the supervisor of assessments. The Equalization Bureau only needs a summary of the MFL information and receives this electronically from the DNR.

The fiscal effect is minimal cost savings from not printing duplicate paper records.

EXPOSITION DISTRICT TAX TECHNICAL CORRECTIONS

The bill makes several technical corrections to the exposition district tax statutes modified by 2015 Wisconsin Act 60.

These provisions have no fiscal effect.

DEFINITION OF RESTAURANT CORRECTION

2015 Wisconsin Act 55 revised the definition of "restaurant" in sec. 125.02(18), Wis. Stats., to include a new requirement that a restaurant was a building, room or place at which the predominant activity was the preparation, service, or sale of meals to transients or the general public. This definition may prohibit certain establishments from obtaining or renewing retail "Class C" licenses because their predominant activity is not the preparation, service, or sale of meals. The bill modifies the definition of "restaurant" to match the definition of "restaurant" as it existed prior to 2015 Act 55.

The provision has no fiscal effect.

ONLINE POSTING OF EXCISE LICENSEES AND PERMITTEES

Under current law, privacy statutes preclude DOR from disclosing licensed manufacturers, distributors, or jobbers or permit-holding fermented malt beverage wholesalers. Current law requires the department to disclose intoxicating liquor permittees (manufacturers, rectifiers, wineries, wine direct shippers, out-of-state shippers, and wholesalers). The bill would require DOR to publish on its Internet site a list of permitted sellers of cigarettes, tobacco products, and fermented malt beverages.

The provision has no fiscal effect.

ELIMINATE STATE-PAID INTEREST PAYMENT ON UNCLAIMED SAVINGS BONDS:

Current law requires the unclaimed property administrator (DOR) to pay up to 6 percent interest on property that is interest-bearing at the time the holder turns over the property to the administrator. This includes U.S. savings bonds, which earn federal interest or reach final maturity regardless of how the property is held by the owner or exists as unclaimed property. Current law requires DOR to pay interest on fully mature U.S. savings bonds. Under the bill, DOR is prohibited from paying interest on a U.S. savings bond.

The provision has no fiscal effect. DOR has not paid any interest on U.S. savings bonds and has not received related claims for interest since taking over the Unclaimed Property Program in 2013.

POLICE AND FIRE PROTECTION FEE

Under current law, DOR administers the Police and Fire Protection Fee (PFPF) under contract with the Public Service Commission (PSC). DOR administers both the \$0.38/line fee for pre-paid wireless plans and the \$0.75/line fee for monthly plans. Current law only specifically authorizes the PSC to contract with DOR to administer the \$0.38/line fee. The bill explicitly authorizes PSC to contract with DOR to collect both fees. The bill also provides DOR with the same audit and administrative authority that applies to other taxes and fees collected by the department.

The department expects the provision to increase PFPF collections by a minimal amount.

EXPLICITLY PROHIBIT LOTTERY TICKET COURIER SERVICES

The Wisconsin Constitution prohibits the purchase of lottery tickets or participation in the lottery by use of phone, computer, other electronic, telecommunication, video, or technological aid. The bill prohibits the operation of lottery ticket courier services that claim to purchase lottery tickets on behalf of customers in other states and transmit the tickets or images of tickets to the customers.

The provision has no fiscal effect.

UPDATE THE LOTTERY'S FINGERPRINTING REQUIREMENT STATUTE

DOR currently requires Lottery employees to provide a fingerprint for the purposes of an FBI background

check upon hiring and every five years thereafter. The bill specifies in statute that background checks are required every five years for lottery employees. The bill also requires the repeat background checks for vendors and third parties who come into contact with sensitive Lottery information.

The provision has a minimal fiscal effect.

LOTTERY PRIZE OFFSETS

Under current law, DOR offsets delinquent tax debts or other debts referred to the agency through the State Debt Collection program from lottery prizes of \$1,000 or greater. The bill lowers the amount to \$600, matching the threshold for requiring a lottery player to claim the prize at the Milwaukee or Madison DOR office.

The provision has a minimal fiscal effect.

Long-Range Fiscal Implications