

# STATEMENT OF SCOPE

## Department of Revenue

Rule No.: Chapter Tax 1, 2, 4, 7, 8, 9, 11, and 14

Relating to: Income, franchise, excise, sales, and use tax

Rule Type: Permanent

This scope statement was approved by the Governor on June 3, 2021.

### 1. Detailed description of the objective of the proposed rule:

Upon review of the administrative code, as it relates to income, franchise, excise, sales, and use taxes for purposes of the JCRAR report submitted on March 31, 2021, the following sections were identified as needing updates:

#### a. Chapter Tax 1 - General Administration

- Section Tax 1.06 and 1.13: Eliminate references to alternative minimum tax, as it no longer applies as a result of 2017 Wisconsin Act 59.

#### b. Chapter Tax 2 - Income Taxation, Returns, Records And Gross Income

- Section Tax 2.02: Add reference to the department's new online tool for creating estimated payment vouchers.

- Section Tax 2.085: Update rule to be consistent with the department's update to Form 804, *Claim for Decedent's Wisconsin Income Tax Refund*.

- Section Tax 2.67: Eliminate references to Forms A-1 and A-2, which calculate the percentage of income attributable to Wisconsin for multi-state businesses. These forms have been replaced with Schedules A-01 through A-11.

- Tax 2.92: Update rule to reflect federal changes to withholding; withholding allowances no longer apply for federal purposes.

- Tax 2.99: Repeal this section of the rule since no new dairy and livestock farm investment credit claims may be made for taxable years beginning after December 31, 2013, pursuant to secs. 71.07 (3n) (g), 71.28 (3n) (g), and 71.47 (3n) (g), Wis. Stats., and this rule is only useful to those who are eligible to claim new credits.

#### c. Chapter Tax 4 - Motor Vehicle And General Aviation Fuel Taxation

- Section Tax 4.001: Update email address for excise tax.

- Section Tax 4.53: Update rule to reflect that the department no longer provides paper Form MF-207, *Certificate of Authorization for Bulk Alternate Fuel Purchasers*, to customers.

- Section Tax 4.54: Update rule to provide an increased dollar threshold for when the department must describe the reasons for requiring security before obtaining a fuel tax license, and update rule to eliminate certificates of deposit as a form of security since the department no longer accepts such form of security.

**d. Chapter Tax 7 - Fermented Malt Beverages**

- Section Tax 7.001: Update email address for excise tax.

**e. Chapter Tax 8 - Intoxicating Liquors**

- Section Tax 8.001: Update email address for excise tax.
- Section Tax 8.03: Update mailing address for new mail stop.

**f. Chapter Tax 9 – Cigarette Tax**

- Section Tax 9.001: Update mailing address for new mail stop.
- Section Tax 9.70: Add references to vapor products, including the definition, as provided in 2019 Wisconsin Act 9.

**g. Chapter Tax 11 – Sales And Use Tax**

- Section Tax 11.001: Remove reference to stadium taxes as baseball stadium taxes ended as provided in 2019 Wisconsin Act 28.
- Section Tax 11.32: Remove reference to Form S-218 as this form is discontinued because it was duplicative of other department forms.
- Section Tax 11.63: Update rule to reflect that radio or television stations may be required to collect Wisconsin sales tax if they are a marketplace provider, as provided in 2019 Wisconsin Act 10.
- Section Tax 11.66: Remove reference to internet access services as such services are no longer taxable as a result of 2017 Wisconsin Act 59.
- Section Tax 11.67: Remove note relating to ruling requests for whether a specific transaction is a sale of a prototype or a research and development service with the prototype transferred incidental to the research and development service as they are no longer received. Any taxpayer can submit a request for ruling as described in the department's Publication 111, *How to Get a Private Letter Ruling*.
- Section Tax 11.68: Remove references to stadium tax as baseball stadium taxes ended as provided in 2019 Wisconsin Act 28, and repeal s. Tax 11.68 (4) (fm) as the exemption for sports and entertainment arena facilities no longer applies after July 31, 2019.
- Section Tax 11.84: Remove references to stadium tax as baseball stadium taxes ended as provided in 2019 Wisconsin Act 28.

**h. Chapter Tax 14 – Homestead Credit**

- Section Tax 14.03: Update rule to reflect repeal of sec. 46.27, Stats., in 2019 Wisconsin Act 9. Rule will be updated to reference sec. 46.27, 2017 Stats.

**2. Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

Existing policies are as set forth in the rules. Updated forms, email and mailing addresses are found on the department's website. This rule is being promulgated primarily to update for nonsubstantive changes and to reflect the statutory provisions described above. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy and procedures.

**3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Section 71.80 (1) (c), Stats., provides that the department may make such regulations as it shall deem necessary in order to carry out chapter 71 of the Wisconsin Statutes, relating to income and franchise taxes.

Section 77.65 (3), Stats., provides that the department may promulgate rules to administer compliance with the streamlined sales and use tax agreement.

Section 78.79, Stats., provides that the department may promulgate reasonable rules relating to the administration and enforcement of chapter 78 of the Wisconsin Statutes, relating to vehicle and general aviation fuel taxes. This provision applies to the revisions of ss. Tax 4.001, 4.53, and 4.54.

Section 125.03 (1), Stats., provides that the department may promulgate rules consistent with chapters 125 and 139 of the Wisconsin Statutes, relating to alcohol beverages regulation and beverage, controlled substances, and tobacco taxes, and to provide for registration of wine collectors and establishing standards of eligibility for registration as a wine collector. This provision applies to the revisions of ss. Tax 7.001, 8.001, 8.03, 9.001, and 9.70.

Section 227.11 (2), Stats., provides statutory rule-making authority as follows:

(a) "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

(b) "Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating the policies as rules ..."

**4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The department estimates it will take approximately 100 hours to develop the rule.

**5. List with description of all entities that may be affected by the proposed rule:**

All taxpayers and tax professionals who rely on clear, current, and concise rules to determine and report their tax liabilities.

**6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

No economic impact is anticipated.

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