

Fiscal Estimate - 2011 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 11s0268/1	Introduction Number ASA1-AB381
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Description
 A sales and use tax exemption for items and services sold as part of a lump sum contract

Fiscal Effect

State:

<input type="checkbox"/> No State Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> Indeterminate	<input checked="" type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Increase Existing Appropriations	<input type="checkbox"/> Decrease Costs	
<input type="checkbox"/> Decrease Existing Appropriations		
<input type="checkbox"/> Create New Appropriations		

Local:

<input type="checkbox"/> No Local Government Costs		5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input checked="" type="checkbox"/> Counties <input checked="" type="checkbox"/> Others <u>Stadium Districts</u> <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
<input type="checkbox"/> Indeterminate		
1. <input type="checkbox"/> Increase Costs	3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs	4. <input checked="" type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory	

Fund Sources Affected	Affected Ch. 20 Appropriations
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By DOR/ Robert Schmidt (608) 267-9892	Authorized Signature Paul Ziegler (608) 266-5773	Date 1/11/2012
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Fiscal Estimate Narratives

DOR 1/11/2012

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Description A sales and use tax exemption for items and services sold as part of a lump sum contract					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, contractors' charges for real property construction are not subject to sales or use tax, but contractors' purchases of building materials are taxable. In contrast, contractors' sales of personal property and taxable services (e.g., a stove and installation charges) may be taxable even if the sale is included within a real property construction contract. The current law treatment for the sale of tangible personal property and taxable services by contractors as part of a lump sum contract is dependent on the amount of taxable products sold to a customer and whether the contractor provides a list price for the taxable products to the customer. If a contractor includes taxable products that are minor in relation to a lump sum contract (less than 10% of the total contract) and no separate charge is made in any document provided to the customer, the cost to the contractor of the taxable products shall be used as the sales price subject to sales tax. If a separate charge is made for any of the taxable products, or the taxable products are more than 10% of the lump sum contract, the separate charge to the customer is subject to the sales tax.

Assembly Substitute Amendment 1 (ASA1) to the bill creates a sales and use tax exemption for tangible personal property and taxable services that are sold by a contractor as part of a lump sum contract, if the total sales price of all such taxable products is less than 10 percent of the total amount of the contract, and regardless of whether the amounts charged for labor and services are listed separately from the amount received for the tangible personal property. Under the proposal, a lump sum contract is a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for which the contractor subsequently itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document. The exemption would be effective on the first day of the 3rd month following publication. Since the contractor is specifically identified as the consumer of the taxable products sold under a qualifying lump sum contract under ASA1, the proposal only exempts a contractor's markup.

According to the 2007 Economic Census, the total value of retail trade by construction businesses in Wisconsin was \$68.2 million in 2007. IHS Global insight currently forecasts that US construction will decrease 33.5% from 2007 to 2012. Assuming that Wisconsin retail trade by construction businesses decreases by the same amount, 2012 retail sales by construction businesses are estimated at \$45.3 million. Assuming that contractors' markup on taxable products is 20%, sales of taxable products to Wisconsin contractors for resale will be \$37.8 million ($\$45.3 \text{ million} \div 120\%$) in 2012, resulting in a markup amount of \$7.5 million ($\$45.3 \text{ million} - \37.8 million).

Under ASA1, it is estimated that state sales and use tax collections would decrease by up to \$380,000 (5% x \$7.5 million) depending on the extent to which contractors currently make a separate charge for taxable products sold as part of a lump sum contract. County and stadium district sales taxes were 8.2% of state sales tax revenues in FY11. Assuming this percentage does not change, county and stadium district sales taxes would decrease by about \$30,000 per year.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2011 Session

Detailed Estimate of Annual Fiscal Effect

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Description A sales and use tax exemption for items and services sold as part of a lump sum contract			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$		\$
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$-380,000	
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$	\$-380,000	
NET ANNUALIZED FISCAL IMPACT			
	<u>State</u>	<u>Local</u>	
NET CHANGE IN COSTS	\$	\$	
NET CHANGE IN REVENUE	\$-380,000	-\$30,000	
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		Date	
		1/11/2012	