



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2019 Wisconsin Act 10
[2019 Assembly Bill 251]

**Collection of Sales Tax by
Marketplace Providers**

Subject to certain exceptions, 2019 Wisconsin Act 10 imposes liability to collect sales tax on “marketplace providers,” defined by the act to be persons who facilitate retail sales by listing or advertising sales by a seller of taxable property or services and who, directly or indirectly, through agreements or arrangements with third parties, processes the payment from the purchaser for the retail sale, regardless of whether compensation or other consideration is received in exchange for the services provided.

The act applies tax collection liability changes to the statewide sales tax as well as certain local sales taxes administered under ch. 77, Stats. The act also applies the definitions created by the act to local room taxes under s. 66.0615, Stats., therefore requiring a marketplace provider to collect any such applicable taxes.

In addition to imposing collection liability on marketplace providers, the act revises prior law with respect to the use of the additional tax collected due to changes to law enacted in response to the U.S. Supreme Court’s decision in *South Dakota v. Wayfair*, 585 U.S. __ (2018).¹ Prior law directed that the additional tax collected from October 1, 2018 to September 30, 2019 must be used to reduce 2019 individual income tax rates. Under the act, the Department of Revenue (DOR) must also determine the increase in tax collections from October 1, 2019 to September 30, 2020. The act directs that these collections must be used to reduce the first and second individual income tax rates in 2019 and 2020, respectively, and in tax years thereafter based on the latter increase in collections.

¹ In *Wayfair*, the U.S. Supreme Court upheld a South Dakota law that required out-of-state sellers to collect sales tax if a seller delivers more than \$100,000 in goods and services or engages in 200 or more separate transactions in that state in a given year.

This memo provides a brief description of the act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

The act also directs DOR to provide a one-time reduction from total tax due in a sales tax audit, equal to 10% of additional sales tax imposed for each year of the audit period, if the annual gross sales of the person being audited are less than \$5 million for each year of the audit period.

Effective date: The provisions of the act relating to reduction of individual income tax rates took effect July 5, 2019. Provisions of the act relating to reduction of audit determinations take effect October 1, 2019, and first apply to written notices of audit determinations made on that day. Provisions of the act relating to sales tax collection by marketplace providers take effect January 1, 2020.

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