

History of Senate Bill 152

SENATE BILL 152

An Act to amend 77.54 (7m) of the statutes; relating to: the tax exemption for occasional sales. (FE)

1999

- 05-13. S. Introduced by Senators A. Lasee, Huelsman and Drzewiecki; cosponsored by Representatives Grothman, Gronemus, Sykora and Powers.
- 05-13. S. Read first time and referred to joint survey committee on Tax Exemptions 146
- 08-11. S. Fiscal estimate received.

Text of Senate Bill 152

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FISCAL ESTIMATE WORKSHEET

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Detailed Estimate of Annual Fiscal Effect

1999 Session

LRB # - 2364/1

Admin. Rule #

INTRODUCTION # SB 152

Subject

Increase Entertainment Limit for Sales Tax Exemption for Occasional Sales

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 State funds from:	
	Increased Costs	Decreased Costs
A. State Costs by Category		
State Operations - Salaries and Fringe	\$	\$ -
(FTE Position Changes)	(FTE)	(- FTE)
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, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ - See text
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ - See text

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ _____	\$ _____
NET CHANGE IN REVENUES	\$ - minimal _____	\$ - minimal _____

Agency/Prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
Wisconsin Department of Revenue John T. Stott, (608) 266-9706	Yeang-Eng Braun <i>Yeang Eng Braun</i> (608) 266-2700	7/29/99

FISCAL ESTIMATE FORM

1999 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # - 2364/1
INTRODUCTION # SB 152
Admin. Rule #

Subject

Increase Entertainment Limit for Sales Tax Exemption for Occasional Sales

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- | | |
|--|--|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues |
| <input type="checkbox"/> Decrease Existing Appropriation | <input checked="" type="checkbox"/> Decrease Existing Revenues |
| <input type="checkbox"/> Create New Appropriation | |

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 Counties Others
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

This bill increases the entertainment expense limit for occasional sales events offered by qualified tax exempt organizations from \$300 to \$500 per event. Detailed information regarding entertainment offerings and expenses at occasional sales events is not available. However, based on anecdotal information, the increased threshold for entertainment expenses is not likely to significantly affect sales tax revenue.

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

John T. Stott, (608) 266-9706

Authorized Signature/Telephone No.

Yeang-Eng Braun

(608) 266-2700

Yeang-Eng Braun

Date

7/29/99

STATE OF WISCONSIN

REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS

1999 SENATE BILL 152

[Introduced by Senators A. Lasee, Huelsman and Drzewiecki; cosponsored by Representatives Grothman, Gronemus, Sykora and Powers.]

General Nature of Proposal

Under current law, certain occasional sales of tangible personal property or services, including admissions or tickets to an event, are exempt from the state sales and use tax. In order to be exempt under current law the sale must:

1. Be made by a neighborhood association, church, civic group, garden club, social club or similar nonprofit organization.
2. Not involve entertainment for which payment in the aggregate exceeds \$300 for performing or as reimbursement of expenses unless access to the event may be obtained without payment of a direct or indirect admission fee.
3. Is conducted by the organization if the organization is not engaged in a trade or business and is not required to have a seller's permit. (Under the law, an organization is engaged in a trade or business and is required to have a seller's permit if its sales of tangible personal property and services, not including sales of tickets to events, and its events occur more than 20 days during the year, unless its receipts do not exceed \$15,000 during the year.)

Generally, the exemption provided under current law does not apply to gross receipts from the sale of bingo supplies to players or to the sale, rental or use of regular bingo cards, extra regular cards and special bingo cards.

The bill increases the entertainment expense limit from \$300 to \$500.

Legality Involved

There are no questions of legality involved.

Fiscal Effect Upon the State and Its Subdivisions

The Department of Revenue estimates the fiscal effect of the bill as follows:

This bill increases the entertainment expense limit for occasional sales events offered by qualified tax exempt organizations from

\$300 to \$500 per event. Detailed information regarding entertainment offerings and expenses at occasional sales events is not available. However, based on anecdotal information, the increased threshold for entertainment expenses is not likely to significantly affect sales tax revenue.

Public Policy Involved

This bill is good public policy.

SB 152

SALES TAX EXEMPTION FOR NONPROFIT ORGANIZATIONS

A nonprofit organization is required to charge WI sales tax on sales of tangible (that can be valued monetarily) personal property and taxable services, unless such sales are exempt occasional sales or are otherwise exempt.

A non-profit organization includes: neighborhood association, church, civic group, garden club, social club . . . NOT organized for profit where no part of the net earnings inures (attached) to the benefit of any private shareholder or individual.

What standards must be met by a nonprofit organization for its sales to qualify as exempt occasional sales?

As of January 1, 1989 - 3 Standards:

1. Organization is not engaged in a trade or a business.
2. Entertainment is not involved.
3. Organization does not have or is not required to have a seller's permit except for conducting bingo events.

1. THE ORGANIZATION IS NOT ENGAGED IN A "TRADE OR BUSINESS."

Two standards are used to determine whether a nonprofit organization is considered to be engaged in a "trade or business."

- o If it exceeds a 20-day standard,
- o If it exceeds a \$15,000 receipts standard

A nonprofit organization is NOT considered to be engaged in a "trade or business" if:

- a. Its SALES of otherwise taxable tangible personal property or services or its events occur on 20 days or less during the calendar year, regardless of the dollar amount of sales. For events involving the sales of tickets, only the actual days of the events are counted, not the days of ticket sales, or
- b. Its "RECEIPTS" for the calendar year are \$15,000 or less, regardless of the number of days on which its sales or events occur. (For this purpose, "receipts" means the gross receipts from all sales in WI of otherwise taxable tangible personal property and services after subtracting allowable exemptions.)

Example 1:

A church sells cookies and cakes at a bake sale. Since the sale of cookies and cakes for off-premises consumption is exempt from sales tax, the sale of these items is not counted as receipts for purposes of the \$15,000 receipts test.

Example 2:

A nonprofit organization, which sells hundreds of Christmas trees, sells five Christmas trees for \$100 to a public school. Although Christmas trees are taxable tangible personal property, a public school can purchase tangible personal property exempt from sales tax. As a result, this \$100 exempt sale to the school is not counted as receipts for purposes of the \$15,000 receipts test.

2. ENTERTAINMENT IS NOT INVOLVED AT AN EVENT FOR WHICH CHARGES CONSTITUTE ADMISSIONS.

- 12/25
\$500
- a. For this purpose, "entertainment" means entertainment provided at an "admission" event by all persons or groups (e.g., band or singers) who are paid in the aggregate \$300 or more per event by all persons for performing, for reimbursement of expenses, or prize money see "2.b. for definition of "admissions."

Example 1:

Four different bands are paid \$100 each to perform at various times during a 3-day event. There is an admission charge for access to the event. Since the total payment for entertainment (\$400) exceeds \$300, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

Example 2:

Two nonprofit organizations co-sponsor an admission event at which a band is hired to perform. Each organization pays the band \$200. Since the total payment for entertainment (\$400) exceeds \$300, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

- b. "Admissions," for purposes of 2.a. are involved if access to the event involving entertainment is generally restricted to only those who pay a required fee, make a required "donation," or who must make a purchase of some kind (e.g., meal, raffle ticket).

Example 1:

A nonprofit organization sponsors a dinner and dance in the high school gymnasium. The dance band is paid in excess of \$300. There is no separate admission charge, however, access to the dance is restricted to those who have purchased the meal. The "meal" charge constitutes an admission charge to an event involving entertainment, therefore, sales by the nonprofit organization at this event are taxable.

Example 2:

A nonprofit organization holds a pig roast at the city park and hires a band to play at the park gazebo, so that patrons, if they so wish, can be entertained while they eat. There is no admission charge and access to the band is open to anyone, whether they purchase the meal or not. The sales by the nonprofit organization may still qualify as exempt occasional sales.

c. Temporary Seller's Permit

A nonprofit organization that would otherwise qualify for exempt occasional sales, except for the involvement of entertainment, may obtain a temporary seller's permit from the Department of Revenue for the day or days involving entertainment, pay the sales tax on that event, and still have exempt occasional sales on days not covered by the temporary permit.

NOTE: Days and receipts from events involving admissions to entertainment for which a temporary seller's permit was obtained are included with all other sales in determining the 20 day test and the \$15,000 taxable receipts test in standard 1.

Example:

A nonprofit organization plans 5 events covering 3 days each for 1990 (total of 15 days). Entertainment will be involved at one event only. The sales by the nonprofit organization would qualify as exempt occasional sales, except for the involvement of entertainment at the one event. The nonprofit organization may obtain a temporary seller's permit for the one event involving entertainment; thus, allowing the other 4 events to qualify as exempt occasional sales.

3. THE ORGANIZATION IS NOT OTHERWISE REQUIRED TO HAVE A SELLER'S PERMIT.

A nonprofit organization is not required to hold a seller's permit if its sales are exempt from sales and use taxation (i.e., it meets standards 1 and 2.)

Note: An organization required to hold a seller's permit solely for the purpose of conducting bingo games may still qualify for exempt occasional sales (on nonbingo sales) if it otherwise qualifies under standards 1 and 2.