Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2017 Session

☐ Original ☐ Updated ☐ Corrected ☒ Supplemental

LRB Number **17a0586/1**	Introduction Number **AA1-AB259**

Description
the length of the recognition period for built-in gains tax; the evidentiary standard for proving a transaction has economic substance; participation by the Department of Revenue in the Multistate Tax Commission Audit Program; and reliance by a taxpayer on past audits by the Department of Revenue

Fiscal Effect

State:

☒ No State Fiscal Effect
☐ Indeterminate
- ☐ Increase Existing Appropriations
- ☐ Decrease Existing Appropriations
- ☐ Create New Appropriations
- ☐ Increase Existing Revenues
- ☐ Decrease Existing Revenues
- ☐ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☐ No
- ☐ Decrease Costs

Local:

☐ No Local Government Costs
☐ Indeterminate
1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
5. Types of Local Government Units Affected
☐ Towns ☐ Village ☐ Cities
☐ Counties ☐ Others
☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
DOR/ Michael Oakleaf (608) 261-5173	Jamie Adams (608) 266-6785	1/31/2018

Fiscal Estimate Narratives

DOR 1/31/2018

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Assumptions Used in Arriving at Fiscal Estimate

As described below, if the amendment is adopted the bill would have no net fiscal effect.

Built-in Gains
Under the bill as introduced, the recognition period for built-in gains for an S-corporation that converted from a C-corporation would be the same for Wisconsin purposes as for federal purposes, and all future changes to the federal recognition period would automatically be adopted for Wisconsin purposes. The amendment deletes the provisions in the bill that relate to the recognition period for built-in gains.

If the amendment is adopted it would result in an increase in income and franchise tax revenue of an estimated $950,000 in FY18, $800,000 in FY19, and $600,000 in FY20 relative to the bill. Relative to current law, if the amendment is adopted there would be no change to the built-in gains recognition period and therefore no fiscal effect.

Evidentiary Standards
The bill would reduce the evidentiary standard for taxpayers related to intercompany transactions between members of a controlled group from "clear and convincing evidence" to a "preponderance of the evidence." The amendment changes the standard to "clear and satisfactory."

If the amendment is adopted, the Department would be able to administer the provision such that there would be no fiscal effect.

MTC Audit Authority
Under the bill as introduced, the current-law authority for the Department to enter into a contract to participate in the Multi-State Tax Commission (MTC) audit program would be repealed. The amendment deletes the repeal, which would leave the current law authority in place.

If the amendment is adopted it would result in an increase in income and franchise tax revenue of an estimated $1.25 million annually relative to the bill. Relative to current law, if the amendment is adopted there would be no change to the Department's authority to participate in the MTC audit program and therefore there would be no fiscal effect.

Reliance on Past Audits
The bill would remove the current law exceptions allowing DOR to revisit assessments for cases in which the taxpayer did not give DOR adequate and accurate information regarding the tax issue in the prior audit determination or if the tax issue was settled in the prior audit determination by a written agreement between DOR and the taxpayer, preventing DOR from reexamining audits in cases in which taxpayers conceal or misrepresent relevant tax information. The amendment keeps the deletion in the original bill but also creates new exceptions for cases where 1) the taxpayer provides incomplete or false information; 2) the tax issue is settled by a written agreement between the Department and the taxpayer before the effective date of the provision; or 3) the tax issue was settled in a prior audit after the effective date of the provision and the parties acknowledge that the Department did not adopt the taxpayer's position.

If the amendment is adopted, the Department can administer the provision such that there would be no fiscal effect.

Long-Range Fiscal Implications