

*STATE OF WISCONSIN**REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS**2017 ASSEMBLY BILL 64/SENATE BILL 30*

[Introduced by the Joint Committee on Finance at the request of Governor Scott Walker.]

2017 Assembly Bill 64/Senate Bill 30 is the 2017-19 Executive Budget Bill (“bill”) prepared by the Governor and introduced by the Joint Committee on Finance at the request of the Governor. The bill contains several provisions that affect existing statutes or create new statutes relating to the exemption of property or persons from state or local taxes. This report addresses those provisions.

**General Nature and Fiscal Effect of Tax Exemption Provisions in
2017 Assembly Bill 64/Senate Bill 30**

Income Tax Exemption for Interest Earned on Bonds or Notes Issued by the Wisconsin Health and Educational Facilities Authority (WHEFA)

The bill allows WHEFA to issue bonds for elderly housing facilities that are exempt from state individual income taxation.

The Legislative Fiscal Bureau (LFB) indicates that, because this provision is a clarification of current law (ch. 66, Stats.), the provision will not reduce state tax revenues.

Income or Franchise Tax Credit, Deduction, or Exemption Sunset

Beginning in taxable years following December 31, 2016, the bill prohibits new claims for credits, deductions, or exemptions filed more than seven years after the provision’s initial applicability. The bill also prohibits a person from claiming any sales and use tax, excise tax, or occupational tax exemption or credit more than seven years after the provision’s effective date, unless the exemption is necessary to comply with the multistate sales and use tax agreement. The bill directs the Department of Revenue (DOR) to submit a report to the Legislature each August detailing the credits and subtractions that would expire in the next two calendar years.

LFB indicates that DOR has noted that, at the time of passage, this provision would only apply (seven years from the bill’s initial applicability) to the newly created young adult employment assistance tax credit which is currently budgeted for \$724,000 in general purpose revenue over the biennium.

Sales and Use Tax Exemption for Certain Construction Contracts

The bill expands current sales and use tax exemptions to apply to all construction contracts involving real property construction activities if the total sales price of the taxable materials is less than 10% of the total contract price. The bill provides that, if a prime contract qualifies for the exemption, the exemption applies to all subcontracts. Alternatively, an individual subcontract may also qualify for the exemption if the sales price of construction materials is less than 10% of the total amount of the

subcontract. When the exemption applies to a prime contract, the prime contractor is the consumer of, and pays the sales tax on, the materials. Similarly, the subcontractor is the consumer of the materials when an exemption applies to an individual subcontract.

The LFB estimates this provision will decrease tax revenue by \$1,250,000 in 2017-18 and \$1,500,000 in 2018-19.

Amended Sales and Use Tax Exemption for Occasional Sales

The current statutory definition of “occasional sales” includes the isolated and sporadic sales of property, items, goods, and services where the infrequency supports the inference that the seller is not pursuing a full- or part-time vocation, occupation, or business. The bill amends the definition of occasional sales to add a presumption that a seller is not pursuing a full- or part-time vocation, occupation, or business as a vendor of tangible personal property, or items, property, goods, or services if the seller’s total taxable sales price from sales of these items is less than \$2,000 during a calendar year.

As this provision would initially apply on January 1, 2018, the LFB estimates that this provision will reduce tax revenues by \$84,950 in 2017-18 and \$162,000 in 2018-19.

Sales Tax Holiday

The bill creates a sales tax holiday, consisting of the first Saturday and first Sunday in August, beginning after May 1, 2017. If the bill passes after May 1, 2017, the effective date of the provision becomes January 1, 2018. This provision is not applicable in 2019 or thereafter. Under the bill, the following items would be exempt from sales tax during the sales tax holiday:

- Clothing, except clothing accessories and equipment, if the sales price of any single item is no more than \$75.
- A computer for personal use, if the sales price of the computer is no more than \$750.
- School computer supplies for personal use, if the sales price of any single item is no more than \$250.
- School supplies, if the sales price of any single item is no more than \$75.

If the provision is effective by May 1, 2017, the LFB estimates this provision will decrease tax revenue by \$11,000,000 in 2017-18 and \$11,000,000 in 2018-19. If the provision is not effective until January 1, 2018, the provision is estimated to decrease tax revenue by \$11,000,000 in 2018-19.

Sales and Use Tax Exemption for Certain Frozen Foods Manufactured Off-Site

The bill creates a sales and use tax exemption for prepared food that is sold by a retailer and that meets all of the following requirements:

1. The prepared food is manufactured by the retailer in a building assessed for property tax purposes as manufacturing property or that would be assessed as manufacturing property if the building was located in this state.
2. The retailer makes no retail sales of prepared food at the building in which the prepared food is manufactured.
3. The retailer freezes the prepared food prior to its sale.
4. The retailer sells the prepared food at retail in a frozen state.
5. The prepared food is not sold with eating utensils that are provided by the retailer.
6. The prepared food is not candy, soft drinks, or dietary supplements.

The LFB estimates this provision will decrease tax revenue by \$1,000,000 annually.

Legality Involved

There are no questions of legality involving the provisions of the bill described in this report.

Public Policy Involved

The Joint Survey Committee on Tax Exemptions finds that the tax exemption provisions of Assembly Bill 64/Senate Bill 30 are appropriate public policy.

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JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS