



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 231
[2017 Assembly Bill 259]

**Various Changes to Wisconsin
Tax Law**

2017 Wisconsin Act 231 makes numerous changes to tax law in Wisconsin, including:

- Change to the standard of proof a taxpayer must meet in order to establish that a transaction has economic substance for income and franchise tax purposes from clear and convincing evidence to clear and satisfactory evidence.
- Elimination of a prior law exception that provided, if a taxpayer did not give the Department of Revenue (DOR) adequate and accurate information regarding a tax issue during a prior audit, the taxpayer could not rely on the prior audit to avoid liability in future audits. In its place the Act creates a new provision to prohibit a taxpayer's reliance on a prior audit if any of the following apply:
 - DOR establishes by clear and satisfactory evidence that the taxpayer provided incomplete or false information relevant to the tax issue in the prior audit determination.
 - The tax issue was settled in the prior audit determination by a written agreement between DOR and the taxpayer that was entered into before the effective date of the Act.
 - The tax issue was settled in the prior audit determination by a written agreement between DOR and the taxpayer that was entered into on or after the effective date of the Act, and in which the parties acknowledged that the department did not adopt the taxpayer's position on the tax issue.
- Adoption, for state income and franchise tax purposes, of certain provisions of the Internal Revenue Code that were adopted as part of the federal Tax Cuts and Jobs Act that was enacted in December 2017, including provisions relating to individual

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>.

retirement accounts, discharge of student loan indebtedness, and use of distributions from 529 accounts for private elementary and secondary school expenses.

- Clarification of references to the Internal Revenue Code with respect to the computation of depletion.
- Creation of sales and use tax exemptions for title holding entities for certain tax-exempt charitable organizations.

Effective date: Generally, 2017 Wisconsin Act 231 took effect April 5, 2018. Provisions of the Act relating to the sales and use tax exemptions took effect retroactively to September 1, 2017 and first apply to contracts entered into on that date. With regard to the evidentiary standard for economic substance, the Act first applies to tax years beginning January 1, 2018. With regard to the computation of depletion, the Act first applies retroactively to tax years beginning after December 31, 2013.

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May 14, 2018

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