
Wisconsin Legislative Council

AMENDMENT MEMO



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2019 Senate Bill 646

Senate Substitute Amendment 1

2019 SENATE BILL 646

2019 Senate Bill 646 makes the following changes relating generally to administration of the local room tax:

- Requires counties to furnish the complete county tax roll to the Department of Revenue (DOR), in addition to the tax roll settlement sheets required under current law.
- Replaces the term “lodging marketplace” with “marketplace provider” as the initial term is used throughout the room tax statute, and applies certain administrative provisions of the state sales tax law to administration of the room tax.
- Revises the definition of “short term rental” by defining it with an upper bound of fewer than 30 days, rather than fewer than 29 days under current law.
- Specifies that all persons subject to room tax shall file returns, as prescribed by the municipality imposing the tax, which may include the following information:
 - Property address.
 - Total sales for each property.
 - Total tax collected for each property.
 - Number of nights each short term rental was rented.
- Revises provisions of the room tax statute relating to exchange of information to allow exchange between a municipality and DOR, as well as between a municipality and other municipalities. Current law provides for exchange with DOR.
- Repeals the “probable cause” investigatory standard for inspection and audit of a person’s records related to the room tax.
- For marketplace providers, specifies a penalty for failure to file a return or pay required room tax of \$500 per day, not to exceed \$45,000 annually. The penalty may be appealed to the municipality, which may waive it.
- Requires municipalities to report to DOR room tax retained by the municipality in fiscal years 2010 to 2014.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 makes the following changes relative to the bill as introduced:

- Incorporates the definition of “marketplace seller” into the room tax statute in addition to other marketplace-related changes described above.
- Removes the bill’s general requirements regarding the filing of returns with a municipality by any person subject to room tax. Instead, under the substitute amendment, a marketplace provider must, subject to issuance of a waiver, collect the room tax and file it with the municipality, on a form specified by DOR, on a quarterly basis. Senate Substitute Amendment 2 also specifies that a municipality may not impose the room tax on a marketplace seller if it collects the tax from a marketplace provider. The form shall contain at least the following:
 - Total sales for properties located in a municipality with a room tax.
 - Total number of nights properties were rented.
 - The rate of the room tax applied to total sales.
 - Total tax collected for properties located in a municipality with a room tax.
- Directs DOR to create a website, by July 31, 2020, that contains contact information and the room tax rates for each municipality that imposes a room tax.
- Retains current law with respect to the “probable cause” investigatory standard for inspect and audit.
- Revises the penalty provisions to apply the current law penalty of the lesser of 25 percent of tax owed, or \$5,000 annually, to a marketplace provider who fails to file a return or pay the required tax.
- Delays the effective date of the bill, except for the DOR website creation, to January 1, 2021.
- Senate Substitute Amendment 1 retains the other aspects of the bill, described above.

BILL HISTORY

2019 Senate Bill 646 was introduced by Senator Olsen and others on January 8, 2020. On February 18, 2020, Senator Olsen offered Senate Substitute Amendment 1. On March 11, 2020, the Senate Committee on Agriculture, Revenue and Financial Institutions recommended adoption of Senate Substitute Amendment 1, and passage of the bill as amended, on votes of Ayes, 9; Noes, 0.

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