

Fiscal Estimate Narratives

DOR 11/15/2023

LRB Number	23-4527/1	Introduction Number	AB-0658	Estimate Type	Original
Description a sales tax exemption for road-building equipment; increasing the income tax withholding threshold for nonresidents; modifying the certification requirement for a qualified opportunity fund; prohibiting certain lottery games; and extending the capital gains exclusion to family members who inherit certain farms organized as a partnership or limited liability company					

Assumptions Used in Arriving at Fiscal Estimate

The bill creates a sales tax exemption for road-building equipment; increases the income tax withholding threshold for nonresidents; modifies the certification requirement for a qualified opportunity fund; eliminates the requirement for estimating the amounts of prizes and the odds of a particular lottery ticket or lottery share winning each prize when the prize or odds are dependent on the number of participants in the game or drawing; and extends the capital gains exclusion to family members who inherit certain farms organized as a partnership or limited liability company.

Sales Tax Exemption for Road Building Equipment:

Based on data from the 2017 economic census, relevant expenditures by roadbuilders (NAICS 237310 – Highway, Street, and Bridge Construction) in WI totaled \$223.9 million in 2017. Assuming the 2012 to 2017 growth trend continued into 2022, annual expenditures would be approximately \$267 million. Based on this data, the sales tax exemption would reduce general fund tax revenue by approximate \$13.3 million on an annual basis.

Not all of the reported expenditures would be covered by the proposed exemption (e.g., trucks, earth moving equipment, other equipment...). Based on DOR administrative records, the department estimates that tax liability would decrease by approximately \$5.5 million per year. The actual decrease in sales tax collections is expected to be minimal given the level of compliance by affected parties under current law. As a result, there is no anticipated effect on local sales tax revenues.

Income Tax Withholding Thresholds:

Under current law, an employer is not required to withhold amounts from a nonresident employee if the total amount of the employee's annual wages attributable to Wisconsin is less than \$1,500. In addition, a pass-through entity is not required to withhold amounts paid to a partner, member, shareholder, or beneficiary if the total annual wages attributable to Wisconsin is less than \$1,000. This bill increases the withholding thresholds to \$2,000 in these two scenarios.

The proposal does not change any individual's net tax liability, but will reduce revenue for individuals who satisfy all the following conditions: 1) they are nonresidents, 2) they have Wisconsin wages between \$1,500 and \$2,000, or they have pass-through income between \$1,000 and \$2,000, 3) their employer or pass-through business will stop withholding because of the proposal, 4) they do not have other income that would trigger a filing requirement, and 5) they do not file a zero-liability Wisconsin tax return in order to claim a refund for amounts withheld.

Under current law, such individuals have withholding tax submitted on their behalf and do not claim the refund to which they are entitled. Under this proposal, such individuals will not have withholding tax submitted on their behalf. For each such individual, the lost withholding could be expected to be near \$100. The number of individuals is unknown, but the proposal is expected to result in a minor revenue loss.

Qualified Opportunity Funds:

Current state law requires a Wisconsin qualified opportunity fund (WQOF) to certify to its investors and DOR that the fund qualifies as a WQOF no later than January 31 following the close of the fund's taxable year. Under this bill, the certification must be made to investors and DOR no later than the due date, including extensions, of the fund's corresponding income or franchise tax return.

Changing the filing deadline for Form WQOF does not affect tax liability. DOR does not anticipate a fiscal effect from this provision.

Capital Gains Exclusion for Farm Assets:

Current law provides a capital gains income tax exclusion for assets used in farming that are held more than one year and sold or transferred to persons who are related to the seller. Under current law, "assets used in farming" includes shares in a corporation or trust engaged in farming, if it has no more than 15 shareholders or beneficiaries, it has no more than two classes of shares, and all its shareholders or beneficiaries are natural persons. Under the bill, "assets used in farming" also includes ownership interest in a partnership or limited liability company, if the partnership or limited liability company has 15 or fewer partners or members and all partners or members are natural persons.

In 2021, about 750 returns excluded approximately \$16.6 million of income based on the existing exclusion for income from the sale of assets used in farming and transferred to relatives. The exclusion reduced revenue by approximately \$770,000 in fiscal year 2022. Data from the USDA on sales of Wisconsin farms by legal status, suggests that extending the existing provision under the bill would reduce revenue by approximately \$260,000 annually.

Lottery Provisions:

The bill would increase lottery sales by an indeterminate amount, which would result in an increase in the lottery and gaming tax credit. For 2023-2024, the average lottery and gaming credit is estimated at \$241.

According to the American Rescue Plan Act (ARPA) Net Tax Reduction Calculation Update memo released by the Department of Administration on 8/28/2023, the remaining margin for tax reductions before triggering potential SLFRF recoupment at \$113 million for fiscal year 2024 and \$319 million for fiscal year 2025. This bill would reduce these margins by the amount of fiscal effect.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2023 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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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 funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$	\$
(FTE Position Changes)		
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	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$
NET ANNUALIZED FISCAL IMPACT		
	State	Local
NET CHANGE IN COSTS	\$	\$
NET CHANGE IN REVENUE	\$See Text	\$See Text
Agency/Prepared By		
Authorized Signature		
Date		
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