

# STATEMENT OF SCOPE

## Department of Revenue

Rule No.: Chapter Tax 11

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Relating to: Sales and use tax provisions

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Rule Type: Emergency and Permanent

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### 1. Detailed description of the objective of the proposed rule:

The objective of the rule is to establish criteria applicable to field audits conducted where an auditor uses a statistical sampling method whereby the auditor randomly selects a sample of transactions and uses probability theory to evaluate the sample results. This rule is mandated under sec. 77.59(2g), Stats., as created by 2017 Wis. Act 59 (the Governor's Budget Bill). The treatment of sec. 77.59(2g), Stats., becomes effective on March 1, 2018.

### 2. Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Current policy is based on sec. 77.59 (2), Wis. Stats., which provides, that an audit determination can be made on the basis of sampling. Specifically, the statute provides, "...[t]he determination may be made on the basis of sampling, whether or not the person being audited has complete records of transactions and whether or not the person being audited consents..." In practice, sampling is used on a case-by-case basis depending on quantity, quality, and availability of records. New policy will be developed to reflect the law change described above. The creation of the rule is mandated by law.

### 3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 77.59 (2g), Stats., provides "[t]he department shall promulgate rules to establish criteria applicable to field audits conducted under this subchapter for which an auditor uses a statistical sampling method...."

Section 227.11 (2) (a), Stats., provides "[e]ach agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

Section 9138 (1f) of 2017 Wis. Act 59 provides an exemption from the required finding of emergency.

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates it will take approximately 100 hours to develop the rule.

### 5. List with description of all entities that may be affected by the proposed rule:

Persons undergoing a Wisconsin sales and use tax audit and practitioners who represent such persons.

**6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

No economic impact is anticipated.

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