



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-5452/1
JK:wlj

2017 SENATE BILL 798

February 12, 2018 - Introduced by Senator FITZGERALD. Referred to Committee on Economic Development, Commerce and Local Government.

1 **AN ACT** *to create* 20.835 (2) (cb) and 77.68 of the statutes; **relating to:** a sales
2 and use tax rebate for certain dependent children and making an
3 appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a onetime sales and use tax rebate to be paid by September 1, 2018, as an approximation of nonbusiness Wisconsin sales tax paid in 2017 for raising children. An individual may claim a rebate equal to \$100 for each qualifying child of the individual. For purposes of claiming the rebate, a qualified child is an individual who is under 18 years of age for the entire year of 2017, a United States citizen, a resident of this state on December 31, 2017, and the claimant's dependent, as determined under the Internal Revenue Code. An individual who is a full-year resident, nonresident, or part-year resident is eligible to claim the rebate if he or she completes an online application for the rebate on a form prepared by the Department of Revenue. A nonresident or part-year resident may claim the rebate if the claimant verifies his or her nonbusiness Wisconsin sales taxes paid in 2017, and the verified amount is at least \$100 for each qualified child.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 798**SECTION 1**

1 **SECTION 1.** 20.835 (2) (cb) of the statutes is created to read:

2 20.835 (2) (cb) *Qualified child sales and use tax rebate for 2018.* A sum
3 sufficient to pay the claims approved under s. 77.68.

4 **SECTION 2.** 77.68 of the statutes is created to read:

5 **77.68 Qualified child sales and use tax rebate for 2018. (1) DEFINITIONS.**

6 In this section:

7 (a) "Claimant" means an individual who is eligible under sub. (3) to claim a
8 rebate under this section.

9 (b) "Department" means the department of revenue.

10 (c) "Full-year resident" means an individual who was a resident of this state
11 for the entire year of 2017.

12 (d) "Nonresident" means an individual who was not a resident of this state for
13 any part of 2017.

14 (e) "Part-year resident" means an individual who was a resident of this state
15 for some part of 2017.

16 (f) "Qualified child" means an individual to whom all of the following apply:

17 1. The individual is under 18 years of age for the entire year of 2017.

18 2. The individual is the claimant's child and the claimant's dependent, as
19 defined under section 152 of the Internal Revenue Code.

20 3. The individual is a United States citizen.

21 4. The individual was a resident of this state on December 31, 2017.

22 **(2) CLAIMS.** (a) Subject to the limitations and conditions under sub. (4), a
23 claimant may claim, as an approximation of the nonbusiness Wisconsin sales or use
24 tax paid in 2017 for raising children, a rebate equal to \$100 for each qualified child
25 of the claimant. An eligible claimant may claim the rebate by submitting an online

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1 application, as prescribed by the department. The department may request that the
2 claimant verify the eligibility of the claimant or child by submitting to the
3 department vital records information or any other information requested by the
4 department. For purposes of this paragraph, the department of health services shall
5 supply, without charge, vital records information to the department of revenue.

6 (b) For each approved claim described under par. (a), the department shall
7 certify the allowable amount of the claim to the department of administration for
8 payment to the claimant by check, share draft, or other draft drawn from the
9 appropriation account under s. 20.835 (2) (cb) by September 1, 2018.

10 **(3) ELIGIBILITY.** (a) An individual who is a full-year resident, nonresident, or
11 part-year resident and who has a qualified child is eligible to receive a rebate under
12 sub. (2) if the individual files a claim for the rebate with the department not later
13 than June 30, 2018. The claim shall be filed by submitting an online application
14 prescribed by the department. The department shall require a nonresident, or a
15 part-year resident who was not a resident on December 31, 2017, to verify his or her
16 nonbusiness Wisconsin sales or use taxes paid in 2017, and the verified amount must
17 be at least \$100 for each qualified child of the claimant to be eligible to receive a
18 rebate under sub. (2).

19 (b) A qualified child may be claimed for the rebate under sub. (2) by only one
20 claimant.

21 **(4) LIMITATIONS AND CONDITIONS.** (a) Section 71.80 (3) and (3m), as it applies to
22 income tax refunds, applies to a sales and use tax rebate under this section.

23 (b) The department may enforce the rebate under this section and may take any
24 action, conduct any proceeding, and proceed as it is authorized with respect to taxes

SENATE BILL 798**SECTION 2**

1 under ch. 71. The income tax provisions in ch. 71 relating to assessments, refunds,
2 appeals, collection, interest, and penalties apply to the rebate under this section.

3 (c) After a rebate has been issued under sub. (2) but before the check, share
4 draft, or other draft has been cashed, the spouse of a married claimant may request
5 a separate check, share draft, or other draft for 50 percent of the joint rebate.

6 (d) If the department is unable to locate an eligible claimant who claimed a
7 rebate under sub. (2) by December 31, 2018, or, notwithstanding s. 20.912 (1), (2), and
8 (3), if an eligible claimant who is issued a check, share draft, or other draft does not
9 cash the check, share draft, or other draft by December 31, 2018, the right to the
10 rebate lapses.

11 (e) If a claimant becomes deceased after he or she filed his or her claim for a
12 rebate under sub. (2), the amount of the rebate for which the claimant is eligible shall
13 be paid to the claimant's estate.

14 **(5) SUNSET.** Except as provided in sub. (4) (b), this section does not apply after
15 December 31, 2018.

16 **SECTION 3. Nonstatutory provisions.**

17 (1) DETERMINATIONS OF ELIGIBILITY OR EXTENT OR AMOUNT OF CERTAIN BENEFITS.

18 (a) In this subsection, "state agency" has the meaning given in section 16.417
19 (1) (a) of the statutes.

20 (b) Notwithstanding any other provision of state law that relates to
21 determining, based on an individual's personal income or assets, that individual's
22 eligibility for a state-funded grant, loan, monetary assistance, or other benefit or the
23 amount or extent of that grant, loan, monetary assistance, or other benefit, a state
24 agency may not consider receipt of a onetime rebate of nonbusiness Wisconsin sales
25 or use tax under section 77.68 of the statutes to be income or an asset of the

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1 individual. This paragraph shall be broadly construed to avoid determinations of
2 ineligibility for a state-funded grant, loan, monetary assistance, or other benefit.

3 (c) By July 1, 2018, the department of health services shall request a waiver,
4 to the extent permitted under federal law, from the secretary of the federal
5 department of health and human services under 42 USC 1396n (c), and shall amend
6 the state plan for services under 42 USC 1396, to authorize the department of health
7 services to disregard receipt by an individual of a onetime rebate of nonbusiness
8 Wisconsin sales or use tax under section 77.68 of the statutes in determining the
9 individual's eligibility for medical assistance under section 49.46 (1), 49.465, or 49.47
10 (4) of the statutes.

11 (d) To the extent permitted under federal law, a state agency shall disregard
12 receipt by an individual of a onetime rebate of nonbusiness Wisconsin sales or use
13 tax under section 77.68 of the statutes in determining the individual's eligibility for
14 a federally funded grant, loan, monetary assistance, or other benefit or in
15 determining the amount or extent of that grant, loan, monetary assistance, or other
16 benefit.

17 **SECTION 4. Fiscal changes.**

18 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
19 the statutes for the appropriation to the department of revenue under section 20.566
20 (1) (a) of the statutes, the dollar amount for fiscal year 2017-18 is increased by
21 \$506,400 due to increased program costs associated with the onetime individual
22 nonbusiness Wisconsin sales and use tax rebate under section 77.68 of the statutes.

23 (END)