



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

January 4, 2024

Assembly Committee on Ways & Means Testimony on Assembly Bill 658

Good Morning!

Thank you Chair Macco and committee members for hearing Assembly Bill 658 (AB 658) that makes various changes to the laws administered and enforced by the Department of Revenue (DOR).

AB 658 makes several technical corrections and minor policy changes that are intended to be revenue neutral or have minimal fiscal impacts. This bill is intended to streamline the processes for both taxpayers and state government.

Main provisions include:

- Clarify Sales and Use Tax on Road Building Equipment.
- Increase the Withholding Threshold for Nonresidents.
- Change the Due Date for Filing Form WQOF-Wisconsin Qualified Opportunity Fund to April 15th.
- Allow the Lottery to Engage in 50/50 Games.
- Decrease the 180-day claim period for special lottery prizes.
- Extend the Capital Gains Exclusion to Family Members Who Inherit Farms Organized as Partnerships or LLCs.

One example of these changes is aligning the withholding threshold for nonresidents with their filing requirement. Under current law, an employer is required to withhold taxes from a nonresident when it appears the employee will earn more than \$1,500 in a calendar year. However, a nonresident who earns less than \$2,000 is not required to file a Wisconsin income tax return. AB 658 simply increases the withholding threshold to \$2,000, so a nonresident doesn't have to file and DOR doesn't have to process a return for earnings between \$1,500 and \$2,000.

Following our testimony, you will hear from DOR Secretary Peter Barca, who will discuss the provisions in greater detail.

Thank you again for hearing AB 658, and your timely action on this proposal.



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Testimony on AB 658

Assembly Committee on Ways and Means

Thursday, January 4, 2024

Thank you Chairman Macco and Assembly Committee on Ways and Means members for holding a public hearing on Assembly Bill 658, the Taxpayer Enhancement Package II bill, and allowing me to provide testimony.

First, I want to thank Senator Marklein and Department of Revenue Secretary Barca for their leadership on this legislation. Both of them will be testifying on the bill today. I am proud to say that AB 658 has bipartisan support in both the Assembly and the Senate.

The bill makes several technical corrections and minor policy changes that are intended to further streamline Wisconsin's tax processes.

The department will provide more details about the provisions in the bill. However, briefly, the bill makes the following modifications:

1. Clarifies the sales and use tax on road building equipment;
2. Increases the withholding threshold for nonresidents;
3. Changes the due date for filing form WQOF to the date of the tax return;
4. Allows the lottery to engage in 50/50 games;
5. Decreases the 180-day claim period for special lottery prizes; and
6. Extends the capital gains exclusion to family members who inherit farms organized as partnerships or LLCs.

The provisions would have minimal fiscal impact or be revenue neutral. Overall, the bill is estimated to reduce general fund tax collections by \$200,000 in the first year and \$300,000 in the second year.

I appreciate your consideration of this bipartisan legislation and I hope the committee will move forward with the bill.



Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

Information Only Testimony on Assembly Bill 658
January 4, 2024
Peter Barca, Secretary of the Department of Revenue

Good morning, Chairman Macco, ranking member Conley and members of the Assembly Committee on Ways and Means. I would like to thank Representative Katsma and Senator Marklein for sponsoring this important piece of legislation. I appreciate the opportunity to provide written testimony for information only on Assembly Bill 658, the Taxpayer Enhancement Package II.

The Taxpayer Enhancement Package II includes a slate of miscellaneous legislative changes to make DOR's administration of Wisconsin tax laws easier on taxpayers and allow participation in two specific types of lottery offerings. Below is an overview of the various changes included in the bill.

Expands the Capital Gains Exclusion for Persons Selling Their Partnership Interest in a Farm to Family Members.

Wisconsin provides a long-term capital gain exclusion for the sale of assets used in farming to a related person. These sales include shares in a corporation or trust that meet standards in statute. However, it does not include the sale of an ownership interest in a farming operation organized as a partnership, or a limited liability company (LLC) treated as a partnership. The department recommends clarifying that the exclusion also applies to income from the sale of a farming operation organized as partnership or LLC treated as a partnership.

Match the Withholding Threshold to the Income Tax Filing Threshold for Nonresidents

Under current law, a nonresident of Wisconsin is not required to file a Wisconsin income tax return if their Wisconsin gross income is less than \$2,000. However, an employer is required to withhold taxes from Wisconsin wages paid to a nonresident when it appears the employee will earn more than \$1,500 of Wisconsin wages during the calendar year. A nonresident who earns less than \$2,000 in Wisconsin is required to file a tax return to receive a refund of their withholding. The department recommends increasing the withholding threshold for nonresidents to \$2,000 to make the amount equal to the filing requirement

Align the Due Date for Filing Form WQOF to the Date of the Income Tax Return

A Wisconsin qualified opportunity fund (WQOF) is a fund that holds at least 90% of its assets in opportunity zone property. Under current law, a WQOF is required to certify to the department and each investor that it qualifies as a WQOF by filing Form WQOF by January 31. Oftentimes, the WQOF does not have all the information it needs by January 31 to file the form, as they don't file their income tax returns nor compile year-end financials until later in the year. The WQOF ends up filing two returns – Form WQOF by January 31 and the tax return by April 15th or later if an extension is filed. DOR recommends changing the due date for Form WQOF to the same date as the related income tax return.

Clarify and Expand the Sales and Use Tax Exemptions on Road Building Equipment



Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

DOR recommends creating a new sales tax exemption for roadbuilding equipment. Current law is confusing as to which exemptions may apply to roadbuilding equipment and supplies (e.g., manufacturing equipment or waste reduction equipment). Adopting this provision would exempt the sale, storage, and use of portable machinery and equipment from the sales and use tax for roads and commercial lot construction or resurfacing.

Decrease 180-Day Claim Period for Special Lottery Prizes

Currently, state law allows Wisconsin Lottery winners up to 180 days to claim their prize. While this time frame works well for cash winnings, sometimes the prize includes trips and/or tickets to special one-time events, such as the final race of the NASCAR season or a concert held only for Lottery winners. These games are typically played in multiple states, and the events often occur within the 180-day claim period required under Wisconsin law. This excludes Wisconsin residents from participating. This change would keep the 180-day requirement for traditional prizes such as Powerball's weekly drawings and Wisconsin Lottery scratch-off tickets but would allow the Wisconsin Lottery to participate in multijurisdictional opportunities requiring a shorter claim period.

Allow the Lottery to Engage in 50/50 Games

The Wisconsin Lottery is currently required by law to post estimate prize payouts and the odds of a particular ticket winning for each game. The Lottery would like to engage in 50/50-style lotto games, where the winner receives half of the proceeds from the sale of tickets. While 50/50 games are not expressly illegal, the prize/odds disclosure requirement effectively prohibits these games because it is impossible to estimate the number of tickets sold and odds of winning on the front end before tickets are sold. The bill allows the Wisconsin Lottery to engage in 50/50-style lotto games by eliminating the prize/odd requirements for 50/50 games only. The Lottery will, however, post on its website examples of payouts and odds of winning from similar previous 50/50 game sales.

We sincerely appreciate the consideration you and your staff have provided in getting to this point today. Thank for you for the opportunity to provide this testimony and as always, I will make myself available for any questions.