



Legislative Fiscal Bureau

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October 21, 2020

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Tax Year 2020 Individual Income Tax Reductions Under Wisconsin Act 10

This memorandum provides information for tax year 2020 on the Department of Revenue (DOR) certification for individual income tax rates (attached to this memorandum). Procedures established under 2013 Act 20, as amended by 2017 Act 368 and 2019 Act 10, require DOR to certify lower tax rates for the two bottom individual income tax brackets to offset the increased sales and use tax collections attributable to remote sellers and marketplace providers.

For tax year 2020, the individual income tax rate reduction is based on the sales and use tax collected from remote sellers and marketplace providers during the 12-month period from October 1, 2019, to September 30, 2020. Under Act 10, the tax reduction is to be divided into two equal components and targeted as rate reductions to the two bottom tax brackets. State law requires DOR to estimate the amount of additional sales tax collected, determine the amount of the tax rate reductions for the two bottom tax brackets, and certify and report its determinations to the Joint Committee on Finance, as well as the Governor, the Secretary of the Department of Administration (DOA), and the Legislative Audit Bureau (LAB), no later than October 20, 2020. Act 10 required the same procedures to occur in 2019 when determining the tax year 2019 income tax rate reduction.

It was estimated under Act 10 that increased sales and use tax collections from remote sellers and marketplace providers of \$119.3 million would be available for income tax rate reductions in tax year 2020. However, a significant amount of taxable sales that had previously occurred in-person shifted to online purchases as a result of the coronavirus pandemic. On October 20, 2020, DOR estimated the increase in sales and use tax collections from remote sellers and marketplace providers between October 1, 2019, through September 30, 2020, was \$257.3 million. The estimated increase in sales tax collections is: (a) \$138.0 million higher than the Act 10 estimate (\$119.3 million); and (b) \$178.1 million higher than the amount certified by DOR in 2019 (\$79.2 million).

Based on this sales tax estimate, DOR certifies reductions in the rates for the two lowest individual income tax brackets from 4.00% to 3.54% and from 5.21% to 4.65% for tax year 2020

and thereafter. The following table reports the four marginal tax rates currently enumerated in statute and the tax rate reductions under Act 10 for tax years 2019 and 2020, as certified by DOR. It should be noted that 2019 Act 9 reduced the marginal tax rate for the second bracket in statute, beginning in tax year 2019, from 5.84% to 5.21%.

**Change in Individual Income Tax Rates Under 2019 Wisconsin Act 10,
Tax Years 2019 (Actual) and 2020 (Preliminary)**

<u>Statutory Tax Rates</u>	<u>Tax Year 2019</u>		<u>Tax Year 2020 and Thereafter</u>	
	<u>Act 10 Reduction</u>	<u>2019 Tax Rate</u>	<u>Act 10 Reduction</u>	<u>2020 Tax Rate</u>
4.00%	-0.14%	3.86%	-0.46%	3.54%
5.21	-0.17	5.04	-0.56	4.65
6.27	0.00	6.27	0.00	6.27
7.65	0.00	7.65	0.00	7.65

Act 10 also directs LAB to review the DOR determinations and report its findings to the Joint Committee on Finance and the Joint Legislative Audit Committee no later than November 1, 2020. Last year, LAB determined that DOR's additional sales and use tax estimates and individual income tax rate determination appeared reasonable for tax year 2019. As a result, no additional action by the Joint Committee on Finance was required, and the tax rates certified by DOR applied in tax year 2019. However, if the LAB review in 2020 results in different tax rate calculations, the Joint Committee on Finance is charged with determining which tax rates apply and reporting its determination to the Governor, the DOA Secretary, and the DOR Secretary no later than November 10, 2020.

BL/bh
Attachment

ATTACHMENT



State of Wisconsin • DEPARTMENT OF REVENUE

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Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

October 20, 2020

The Honorable Alberta Darling, Co-Chair
Joint Committee on Finance
State Capitol – Room 317 East
Madison, WI 53708

The Honorable John Nygren, Co-Chair
Joint Committee on Finance
State Capitol – Room 317 East
Madison, WI 53708

Dear Senator Darling and Representative Nygren:

Wis. Stat. § 73.03(71) requires the Department of Revenue to estimate additional sales and use tax revenue reported to the department as a result of the United States Supreme Court decision (*Wayfair*) that expands the state's authority to require out-of-state retailers and marketplace providers to collect and remit sales and use tax during the period beginning Oct 1, 2019 and ending September 30, 2020.

The department estimates the amount of additional revenue to be \$257.3 million for the 12-month period ending September 30, 2020. The estimate is based on tax amounts reported by filers who registered to collect taxes after the *Wayfair* decision and are located outside of the state. Additional revenue reported by marketplace providers is included in this amount as the marketplace provisions included in 2019 Wisconsin Act 10 took effect January 1, 2020. Some filers have both remote retail sales and third-party marketplace sales. The estimated additional revenue includes both sales channels. Other filers may have in-state retail sales and marketplace sales. In these cases, the department isolated the marketplace revenue from the previously reported taxable retail sales (some of which are conducted at physical locations in Wisconsin).

Wis. Stat. § 73.03(71) also requires the department to determine how much the 1st and 2nd individual income tax rates listed in each bracket may be reduced in tax year 2020 in order to reduce total income taxes by an amount equal to the estimated increase in sales tax revenue. The statutes require the department to calculate the rate reduction so that 50 percent of the estimation is used to reduce the 1st income tax rate listed in each bracket and the remaining 50 percent is used to reduce the 2nd income tax rate listed in each bracket. The rate changes approved by the Joint Committee on Finance for tax year 2019 were only for that specific tax year. The rates the department certifies below are for tax year 2020 and each tax year thereafter.

The department certifies that the 1st and 2nd rates will be reduced as follows:

Determination Tax Year 2020:		Estimated Individual Income Tax Reduction Amount		
1 st Rate Change	2 nd Rate Change	1 st Rate Impact	2 nd Rate Impact	Total Fiscal Effect
4.00% à 3.54%	5.21% à 4.65%	\$127.9 million	\$128.6 million	\$256.4 million

The determination was made by running simulations of rate changes on growth-adjusted tax year 2018 individual income tax returns to maximize the amount of tax relief across the two rates and maintaining the historical standard of keeping rates in terms of hundredths of a percent. Any further decrease in the individual income tax rates would result in the individual income tax reduction exceeding the estimated increase in sales and use tax amounts.

Sincerely,

Peter Barca
Secretary of Revenue