

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

|  |                         |
|--|-------------------------|
| 1. Type of Estimate and Analysis<br><input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected | 2. Date<br>May 10, 2019 |
|--|-------------------------|

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)  
Chapter Tax 11.97 – "Engaged in business" in Wisconsin

4. Subject  
Describes activities that require out-of-state retailers to collect and remit Wisconsin sales and use tax.

|   |   |
|---|---|
| 5. Fund Sources Affected<br><input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S | 6. Chapter 20, Stats. Appropriations Affected |
|---|---|

7. Fiscal Effect of Implementing the Rule  
 No Fiscal Effect     Increase Existing Revenues     Increase Costs     Decrease Costs  
 Indeterminate     Decrease Existing Revenues     Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)  
 State's Economy     Specific Businesses/Sectors  
 Local Government Units     Public Utility Rate Payers  
 Small Businesses (if checked, complete Attachment A)

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).  
\$ None

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?  
 Yes     No

11. Policy Problem Addressed by the Rule  
This rule order repeals sec. Tax 11.97, Adm. Code, which describes activities that requires out-of-state retailers to register and collect Wisconsin sales and use tax. This section of the Admin. Code is superseded by *Wayfair* and enactment of 2017 Wisconsin Act 368.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.  
Wisconsin Taxation Committee (WICPA), Wisconsin Manufacturers and Commerce (WMC), Wisconsin Association of Accountants (WAA), Tax Executives Institute (TEI), Independent Business Association of Wisconsin (IBAW), Wisconsin Independent Businesses (WIB), National Federation of Independent Businesses (NFIB), Council on State Taxation (COST), and National Association of Computerized Tax Processors (NACTP).

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

There is no fiscal effect for the proposed rule as the state statutes carry the same requirements as the rule.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule  
This section of the Admin. Code is superseded by *Wayfair* and duplicative of current statutes.

## ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

---

16. Long Range Implications of Implementing the Rule

Since this section of the Admin. Code is superseded by *Wayfair* there are no long range implications of repealing sec. Tax 11.97.

---

17. Compare With Approaches Being Used by Federal Government

There are no similar approaches being used by Federal Government.

---

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Adjacent states have implemented the U.S. Supreme Court's decision in *Wayfair* through legislation and administrative policy. Minnesota had an existing 1989 law that became effective due to the Court's decision in *Wayfair*. North Dakota enacted an economic nexus law for remote sellers prior to the *Wayfair* decision. Michigan issued an administrative bulletin to address economic nexus standards consistent with the *Wayfair* decision. All three states required remote sellers to begin collecting tax on October 1, 2018. Iowa enacted legislation prior to the *Wayfair* decision, although the legislation effective date and remote seller required collection date was January 1, 2019.

---

|                  |                          |
|------------------|--------------------------|
| 19. Contact Name | 20. Contact Phone Number |
| Jen Chadwick     | 608-266-8253             |

---

This document can be made available in alternate formats to individuals with disabilities upon request

**ADMINISTRATIVE RULES**  
**Fiscal Estimate & Economic Impact Analysis**

**ATTACHMENT A**

---

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

---

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

---

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

---

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

---

5. Describe the Rule's Enforcement Provisions

---

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- Yes    No
-

**FISCAL ESTIMATE FORM**

**2017 Session**

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

|                            |
|----------------------------|
| <b>LRB #</b>               |
| <b>INTRODUCTION #</b>      |
| <b>Admin. Rule # 11.97</b> |

**Subject**

This rule repeals Tax 11.97 relating to sales and use tax provisions for out-of-state retailers.

**Fiscal Effect**

- State:**  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs - May be Possible to Absorb<br>Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No<br><br><input type="checkbox"/> Decrease Costs |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |   |
| <input type="checkbox"/> Create New Appropriation        |   |   |

**Local:**  No Local Government Costs

- |  |   |  |
|--|---|--|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:<br><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities<br><input type="checkbox"/> Counties <input type="checkbox"/> Others _____<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |  |

**Fund Sources Affected**

- GPR    FED    PRO    PRS    SEG    SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate:**

This rule order repeals sec. Tax 11.97, Adm. Code, which describes activities that requires out-of-state retailers to register and collect Wisconsin sales and use tax. This section of the Admin. Code is superseded by *Wayfair* and enactment of 2017 Wisconsin Act 368. Therefore, there is no effect on small business.

There is no fiscal effect for the proposed rule as the state statutes carry the same requirements as the rule.

**Long-Range Fiscal Implications:**

|  |   |                          |
|--|---|--------------------------|
| <b>Agency/Prepared by:</b><br>Wisconsin Department of Revenue<br>Travis Arthur<br>(608) 266-8565 | <b>Authorized Signature/Telephone No.</b><br>Wisconsin Department of Revenue<br>Jamie Adams<br>(608) 266-6785 | <b>Date</b><br>3-19-2019 |
|--|---|--------------------------|

**FISCAL ESTIMATE WORKSHEET**

Detailed Estimate of Annual Fiscal Effect

**2017 Session**

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

|                     |                      |
|---------------------|----------------------|
| <b>LRB #</b>        | <b>Admin. Rule #</b> |
| <b>INTRODUCTION</b> | 11.97                |

**Subject**

This rule repeals Tax 11.97 relating to sales and use tax provisions for out-of-state retailers.

**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 State funds from: |                 |
|---|---|-----------------|
| A. State Costs by Category  | Increased Costs                               | Decreased Costs |
| State Operations - Salaries and Fringe  | \$  | \$ -            |
| (FTE Position Changes)  | ( FTE)  | (- FTE)         |
| State Operations-Other Costs  |   | -               |
| Local Assistance  |   | -               |
| Aids to Individuals or Organizations  |   | -               |
| <b>TOTAL State Costs by Category</b>  | \$  | \$ -            |
| B. State Costs by Source of Funds   | Increased Costs                               | Decreased Costs |
| 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   |   | -               |
| <b>TOTAL State Revenues</b>   | \$  | \$ -            |

**NET ANNUALIZED FISCAL IMPACT**

|                        | <u>STATE</u> | <u>LOCAL</u> |
|------------------------|--------------|--------------|
| NET CHANGE IN COSTS    | \$ 0         | \$ 0         |
| NET CHANGE IN REVENUES | \$ 0         | \$ 0         |

|  |   |                          |
|--|---|--------------------------|
| <b>Agency/Prepared by:</b><br>Wisconsin Department of Revenue<br>Travis Arthur<br>(608) 266-8565 | <b>Authorized Signature/Telephone No.</b><br>Wisconsin Department of Revenue<br>Jamie Adams<br>(608) 266-6785 | <b>Date</b><br>3-19-2019 |
|--|---|--------------------------|