

Report From Agency
DEPARTMENT OF REVENUE
CLEARINGHOUSE RULE NUMBER 19-141
SECTION 227.19(2) AND (3), STATS., REPORT

Basis and Purpose of the Proposed Rule

2017 Wisconsin Acts 2 and 59 have made changes to Wisconsin's income and franchise tax laws. The department has created this proposed rule order to reflect these statutory changes, as well as provide needed clarification and correction.

Public Hearing

A public hearing was held on December 13, 2019. No one appeared at the hearing.

A written comment was received from Lynn O'Neill during the economic impact comment period.

Comment 1:

The removal of "if the benefit of the service is received in Wisconsin" in sec. Tax 2.39 (6) (f) seems to imply that if I, an Illinois resident, get my car work done in Wisconsin and the car is directly or indirectly delivered to me in Illinois that it cannot be taxed by Wisconsin.

DOR's Response to Comment 1:

The change in Section 17 (sec. Tax 2.39 (6) (f)) removes words in the rule that are already provided in the cited statute. This is preferred rule drafting because the rule does not need to be revised if the cited statute is revised. In this case, the cited statute was revised as a result of 2017 Wis. Act 59 – the Act added sourcing of advertising services by broadcasters, which are not based on where the benefit of the service is received.

Comment 2:

The removal of "tangible personal property that is located in this state at the time that the service is received" in sec. Tax 2.49 (4) (x) 1. b. seems to do the same thing as the removal in Section 17. The removal of these items creates confusion with more vague terminology.

DOR's Response to Comment 2:

The changes in Section 19 (sec. Tax 2.49 (4) (x) 1. b.) are made to conform the rule with the exact wording in the law, as modified by 2017 Wis. Act 59.

Legislative Council Staff Recommendations

The Legislative Council staff recommendations have been incorporated in the proposed rule order.

Regulatory Flexibility Analysis

The proposed rule order does not affect small businesses.

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