

Report From Agency

Section 227.19 Report
June 1, 2024

Clearinghouse Rule 24-038
Emergency Rule 2404
STATE OF WISCONSIN
DEPARTMENT OF REVENUE

REPORT TO THE LEGISLATURE

In the matter of rulemaking proceedings before the Wisconsin Department of Revenue, creating Tax 3.10 relating to a commercial loan exemption.

Proposed Rule

The proposed rule revisions and analysis are attached.

Fiscal Estimate and Economic Impact Analysis

The Fiscal Estimate and Economic Impact Analysis are attached.

Basis and Purpose of the Proposed Rule

2023 Wisconsin Act 19 provided that financial institutions may exempt income derived from commercial loans of five million dollars or less, made to a person in Wisconsin, primarily for a business or agricultural purpose from Wisconsin income and franchise taxes. The Act did not contain definitions necessary for the administration of the exemption.

The proposed rule provides definitions of terms important for the effective and consistent administration of the act. The rule also contains examples to help taxpayers understand what income qualifies for the exemption and provides recordkeeping requirements.

Public Hearing

A public hearing was held via Microsoft Teams on May 15, 2024. 12 people registered for the hearing. Five people attended the hearing, and one provided testimony.

Summary of Public Comments and the Department's Responses, and Explanation of Any Resulting Modifications to the Proposed Rules

Economic Impact Analysis (EIA): A public comment period for the EIA was held from March 25 to April 1, 2024. One public comment was received relating to the economic impact. The comment was related to the underlying policy to grant financial institutions an exemption from income for certain qualifying income. This policy was created with 2023 Wisconsin Act 19, and out of the scope of control of the department. No changes were made because of this comment.

Public Hearings and Comments: The public comment period for the draft rule began when the rule was posted in the administrative rules register on May 6, 2024 and ended on May 15, 2024.

No comments were received during the public comment period. One person provided testimony at the public hearing on May 15, 2024.

Public Comment Summary: The public comment received by the department was provided by Ms. Rose Oswald Poels, President and CEO of the Wisconsin Bankers Association. Ms. Poels highlighted in her testimony the considerable time and effort the department made to engage with organizations familiar with the banking industry, including the Wisconsin Department of Financial Institutions and the Wisconsin Bankers Association. Ms. Poels noted that the contents of Tax 3.10 provide necessary clarity to financial institutions and the department on qualifications for the exemption and record retention requirements. She concluded that the WBA supports the proposed rule order as written. A copy of the testimony follows this report.

Department Response to Comments: The department values the contributions of the Wisconsin Bankers Association to the creation of this rule. No changes will be made to the proposed rule order because of this testimony.

Legislative Council Staff Recommendations and the Department's Response

The Legislative Council Rules Clearing House submitted comments on form, style and placement in the administrative code, adequacy of references, and clarity, grammar, punctuation, and use of plain language. Changes were made to the proposed rule to address all recommendations by the Rules Clearinghouse.

Regulatory Flexibility Analysis

The rule is not expected to have an impact on small businesses.

Response to Small Business Regulatory Review Board Report

The Small Business Regulatory Review Board did not prepare a report on this proposal.