

STATEMENT OF SCOPE

Department of Revenue

Rule No.: Chapter Tax 1, 2, 3, 4, 7, 8, 9, and 14

Relating to: Income, franchise, and excise tax

Rule Type: Permanent

This scope statement was approved by the Governor on October 3, 2019.

1. Detailed description of the objective of the proposed rule:

Upon review of the administrative code, as it relates to income, franchise, and excise taxes for purposes of the JCRAR report submitted on March 26, 2019, the following sections were identified as needing updating or repeal:

a. Tax 1

- Section Tax 1.10: Replace "special fuel tax" with "alternative fuels tax"
- Section Tax 1.11
 - Add other situations in which district attorneys may examine returns as specified in s. 71.78 (8), Stats.
 - Remove reference to older tax years
 - Update to address other situations relating to producing records
 - Repeal sections relating to board of arbitration and commissioner of insurance as they no longer apply
 - Remove limitation of access to sales and use tax returns as it no longer applies
 - Remove statement relating to open inspection by the public as it no longer applies

b. Tax 2

- Section Tax 2.04 (2): Add reference to s. 71.715 (2), Stats. per 2017 Wis. Act 59
- Section Tax 2.07
 - Remove mailing camera-ready copies of the earned income tax credit informational flyers to large Wisconsin employers as the department no longer performs this activity
 - Remove obsolete toll-free telephone information
- Section Tax 2.10: Remove reference to obsolete forms
- Section Tax 2.105
 - Update \$10,000 deficiency amount to \$50,000 relating to decisions in unappealable cases heard by the U.S. tax court
 - Update old tax years
 - Repeal section relating to 1986 and prior taxable years as this is no longer needed
- Section Tax 2.12

- Update old tax years
- Remove reference to obsolete forms
- Section Tax 2.88: Remove reference to old tax years as they no longer apply
- Section Tax 2.89: Remove reference to obsolete form
- Section Tax 2.955: Update old tax years
- Section Tax 2.956: Repeal section as it only applied for the initial applicability of projects begun after December 31, 1988
- Section Tax 2.98: Repeal old tax years as they no longer apply

c. Tax 3

- Section Tax 3.096: Repeal old tax years as they no longer apply

d. Tax 4

- Section Tax 4.001: Update to reflect that all returns are electronically filed
- Section Tax 4.75: Replace reference to fax with excise email address and customer service phone number

e. Tax 7

- Section Tax 7.001: Update to reflect that all returns are electronically filed
- Section Tax 7.01: Update to reflect permits are posted online
- Section Tax 7.11: Update to reflect all refund claims are electronically filed and records are kept electronically
- Section Tax 7.21: Update reference to federal regulations

f. Tax 8

- Section Tax 8.001: Update to reflect that all returns are electronically filed
- Section Tax 8.22: Update to reflect permits are posted online
- Section Tax 8.63: Update to reflect permits are posted online

g. Tax 9

- Section Tax 9.001: Update to reflect that all returns are electronically filed

h. Tax 14

- Section Tax 14.01: Update old tax years
- Section Tax 14.02: Repeal old tax years as they no longer apply
- Section Tax 14.04: Update old tax years
- Section Tax 14.05: Repeal example which is incorrectly listed under exempt housing (applies to non-arm's length rental transactions)

2. Description of existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

Existing policies are as set forth in the rules. Additional language is needed to reflect the statutory provisions described above. If the rules are not changed, they will be incorrect in that they will not reflect current law or current department policy.

3. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Under 70.375 (2) (b), Stats., the secretary may promulgate any rules necessary to implement the tax under ss. 70.37 to 70.39 and 70.395 (1e). This provision applies to the revisions of s. Tax 1.11.

Under s. 71.80 (1) (c), Stats., the department may make such regulations as it shall deem necessary in order to carry out chapter 71 of the Wisconsin Statutes, relating to income and franchise taxes.

Section 77.65 (3), Stats., provides "[t]he department may promulgate rules to administer this section..." This provision applies to the revisions of s. Tax 1.11.

Under s. 78.79, Stats., the department may promulgate reasonable rules relating to the administration and enforcement of chapter 78 of the Wisconsin Statutes, relating to vehicle and general aviation fuel taxes. This provision applies to the revisions of ss. Tax 4.001 and 4.75.

Under s. 125.03 (1), Stats., the department may promulgate rules consistent with chapters 125 and 139 of the Wisconsin Statutes, relating to alcohol beverages regulation and beverage, controlled substances, and tobacco taxes, and to provide for registration of wine collectors and establishing standards of eligibility for registration as a wine collector. This provision applies to the revisions of ss. Tax 7.001, 7.01, 7.11, 7.21, 8.001, 8.22, 8.63, and 9.001.

Under s. 125.54 (7) (d), Stats., the department shall promulgate rules to administer and enforce the requirements relating to wholesalers' permits.

Under s. 139.08(2), Stats., the secretary of revenue shall adopt rules necessary to carry out the secretary's duties under this chapter.

Under s. 139.39, (1), Stats., the department shall adopt rules necessary to administer and enforce its duties.

Section 227.11 (2), Stats., provides statutory rule-making authority as follows:

(a) "Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute..."

(b) "Each agency authorized to exercise discretion in deciding individual cases may formalize the general policies evolving from its decisions by promulgating the policies as rules ..."

4. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

The department estimates it will take approximately 100 hours to develop the rule.

5. List with description of all entities that may be affected by the proposed rule:

Tax professionals, businesses, individuals, fiduciaries, and others who rely on clear, current, and concise rules.

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

7. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

No economic impact is anticipated.

Contact Person: Jen Chadwick (608) 266-8253