
Wisconsin Legislative Council

ACT MEMO



Prepared by: Brian Larson, Principal Attorney

August 14, 2024

2023 Wisconsin Act 146
[2023 Senate Bill 616]

**Provisions Administered by
Department of Revenue**

2023 Wisconsin Act 146 made changes to various provisions of law administered by the Department of Revenue (DOR).

ROAD BUILDING EQUIPMENT

Act 146 created an exemption from the sales and use tax for portable road-building equipment. The exemption applies to the sale of portable machinery and equipment used primarily to crush, mill, produce, or pulverize asphalt, concrete, gravel, rock, or aggregate base for road or commercial surface lot construction or resurfacing.

INCOME TAX WITHHOLDING THRESHOLDS

Under state law, a nonresident is not required to file a Wisconsin income tax return if their Wisconsin gross income is less than \$2,000 in a year. However, prior to the enactment of Act 146, an employer was required to withhold taxes from wages paid to a nonresident above \$1,500. Also, prior to the enactment of Act 146, a pass-through entity was required to withhold taxes from amounts paid to a partner, member, shareholder, or beneficiary above \$1,000. Under Act 146, these withholding thresholds for nonresident income earners are increased to \$2,000.

QUALIFIED OPPORTUNITY FUNDS

Under state law, a Wisconsin qualified opportunity fund (WQOF) is a fund that holds at least 90 percent of its assets in qualified opportunity zone property in this state. Annually, a WQOF must certify to its investors and DOR that it qualifies as a WQOF. Prior to the enactment of Act 146, the certification was required no later than January 31 after the close of a taxable year. Under Act 146, the certification must be made no later than the due date, including extensions, of the corresponding income or franchise tax return. Also, Act 146 clarifies that it must be made in the form and manner prescribed by DOR.

LOTTERY GAMES

Under state law, the Lottery Division of DOR generally must post estimated prize payouts and the odds of a particular ticket winning for each game. Act 146 eliminated this requirement when the prize or odds are dependent on the number of participants.

Also, under state law, a person who holds a winning lottery ticket or lottery share generally may claim a prize within 180 days after the prize is won, and a person who holds a winning ticket or share for an instant game or scratch-off game generally may claim a prize within 180 days after the game's end date. Act 146 provides that the administrator of the Lottery Division of DOR may set a shorter time period for a multijurisdictional lottery secondary or subsequent chance drawing or game.

FARM ASSETS

State law includes a capital gains income-tax exclusion for “assets used in farming” that are held more than one year and sold or transferred to a person related to the seller. This exclusion may include shares in a farming corporation or trust engaged in farming, if it has no more than 15 shareholders or beneficiaries, and no more than two classes of shares, and if all its shareholders or beneficiaries are natural persons. Act 146 provides that, for purposes of the above exclusion, “assets used in farming” may also include an ownership interest in a partnership or limited liability company provided it has 15 or fewer partners or members and that they are all natural persons.

COMMERCIAL LOANS

Act 146 modified provisions created in 2023 Wisconsin Act 19 relating to a sales tax exemption for commercial loans by specifying that the loan must be for a business or agricultural purpose in this state.

ELECTRONIC VAPING DEVICE REGISTRY

Act 146 modified provisions created in 2023 Wisconsin Act 73 (Act 73) relating to an electronic vaping device registry maintained by DOR by specifying that the registry must be available beginning September 1, 2025, as opposed to March 1, 2025.

SPECIAL PURPOSE DISTRICT BOARD MEMBERS

Under state law, the terms of office for members of the board of directors of a special purpose district, such as the Wisconsin Center District, are generally set at three years. Prior to the enactment of Act 146, no appointed board member could serve for more than six years. Act 146 instead provides that no appointed board member may serve for more than nine years.

COMMON CARRIERS INVOLVED IN DIRECT WINE SHIPPING

Under state law, as modified by Act 73, a common carrier is prohibited from shipping alcohol beverages other than wine obtained from a permitted direct wine shipper or a permitted fulfillment house. Prior to the enactment of Act 146, state law required DOR to revoke the permit of any common carrier that violated this prohibition. Under Act 146, DOR is allowed, rather than required, to revoke the permit of a common carrier that violates this prohibition. Furthermore, Act 146 specifies that DOR may only take this action if it determines the carrier engaged in repeated and negligent transportation and shipping practices involving alcohol beverages and violated the prohibition in more than one month in a year.

Act 146 also modified certain provisions created under Act 73 requiring common carriers to submit a monthly report to DOR. Specifically, Act 146 removed a requirement that the report include the name and address of the manufacturer. Instead, Act 146 provides that the common carrier must report the name and the address of the consignor in all shipments, and that it must report the weight, rather than the type and quantity, of the alcohol beverages.

NONSTATUTORY PROVISIONS

Act 146 created a nonstatutory provision increasing the full-time equivalent (FTE) positions for DOR by 4.0 positions for cigarette, tobacco, and vapor enforcement. The positions are funded from the permanent endowment fund under the tobacco settlement agreement. Act 146 appropriated \$201,100 in fiscal year 2023-24, and \$643,100 in fiscal year 2024-25, for this purpose. Meanwhile, Act 146 also

reduced the transfer from the permanent endowment fund to the Medical Assistance trust fund by those amounts in each corresponding fiscal year.

Act 146 created a nonstatutory provision increasing the FTE positions for DOR by 1.0 position for administration of the municipal sales tax authorized under 2023 Wisconsin Act 12 (Act 12). The position is funded through the appropriation for municipal tax administration.

Act 146 created a nonstatutory provision increasing the FTE positions for DOR by 4.0 positions for administration of shared revenue and innovation grant distributions, as provided under Act 12. The positions are funded by a \$125,000 increase to DOR's appropriation for general program operations in fiscal year 2023-24, and a \$409,700 appropriation for shared revenue and innovation grant administration in fiscal year 2024-25.

Effective date: March 23, 2024

For a full history of the bill, visit the Legislature's [bill history page](#).

BL:ksm