

Wisconsin Tax Updates Newsletter

ABLE Accounts Revised ([2015 Act 312](#), effective January 1, 2016)

Wisconsin has adopted the provision of federal law that allows ABLE accounts (tax-preferred savings accounts for disabled individuals) to be established in any state, not just the state of residence of the disabled individual.

A Wisconsin subtraction from federal adjusted gross income is allowed for the amount deposited in the taxable year by the account owner or any other person into the ABLE account. The maximum amount of annual contributions that may be made to an account for a particular beneficiary is the federal gift tax exclusion amount for the year (\$14,000 for 2016). This subtraction does not apply to rollovers or transfers to the account.

To the extent not included in federal adjusted gross income, an addition to income is required for any amount withdrawn from a qualified ABLE account for any reason other than the payment of qualified disability expenses for the account beneficiary.

Upon termination of an account, an addition to income is required for any amount in the account that is returned to an account owner's estate.

Unreimbursed medical expenses claimed as federal itemized deductions are not allowed in computing the Wisconsin itemized deduction credit to the extent the funds used to pay the expenses were withdrawn from an ABLE account.

Exemption from Withholding for Real Estate Activities ([2015 Act 258](#), effective July 1, 2016)

The definition of "employee" is revised to clarify that the term "employee" does not include a real estate broker or salesperson who is excluded as an employee under sec. 452.38, Wis. Stats. Under sec. 452.38, a person is not considered an employee of a firm if all the following apply:

- a) A written agreement has been entered into with the firm that provides that the licensee shall not be treated as an employee for federal and state tax purposes, and
- b) Seventy-five percent or more of the compensation related to sales or other output, as measured on a calendar year basis, paid to the licensee pursuant to the written agreement is directly related to the brokerage services performed by the licensee on behalf of the firm.

Increase Standards for Occasional Sale Exemption for Nonprofit Organizations ([2015 Act 364](#), effective January 1, 2017)

Certain standards, including an entertainment standard, a receipts standard, and a number of days' sales standard, must be met for a nonprofit organization's sales to qualify as exempt occasional sales. Beginning with sales made in 2017, these standards have been increased.

- The standard to determine whether entertainment is involved at an event will be increased from \$500 to \$10,000.
- The standard relating to a nonprofit organization's receipts will be increased from \$25,000 to \$50,000.
- The standard relating to the number of days of which sales of taxable products can occur will be increased from 20 days to 75 days.

For additional information about the standards that must be met for a nonprofit organization's sales to qualify as exempt occasional sales, see [Publication 206](#), *Sales Tax Exemption for Nonprofit Organizations*. This publication is currently being revised to reflect the law change.

Exemption for Music Sold in Jukeboxes ([2015 Act 251](#), effective June 1, 2016)

Effective June 1, 2016, sec. 77.54(63), Wis. Stats., provides an exemption from sales and use taxes for music sold in a tangible form to a person in the business of providing a taxable service through a jukebox if the music is used exclusively for the jukebox. For purposes of this exemption, music is sold in a tangible form is a separate sale from the jukebox through which the music is played if the sales price of such property is separately indicated from the sales price of the jukebox on the invoice, bill of sale, or similar document that the seller gives to the purchaser.

Existing law, sec. 77.54(50), Wis. Stats., provides an exemption from sales and use taxes for specified digital goods and additional digital goods if the tangible form of the product is exempt. Therefore, music is sold as a digital good that is transferred electronically to a person in the business of providing a taxable service through a jukebox will also be exempt if the music is used exclusively for the jukebox. For purposes of this exemption, music sold as a digital good is a separate sale from the jukebox through which the music is played if the sales price of such digital good is separately indicated from the sales price of the jukebox on the invoice, bill of sale, or similar document that the seller gives to the purchaser.