

## **WISCONSIN**

### **Description and Scope:**

This document describes and critiques Wisconsin's imposition of sales tax on "specified digital goods" and "additional digital goods."<sup>1</sup>

### **Definitions and Impositions:**

The Wisconsin sales tax imposes sales tax on "specified digital goods" and "additional digital goods."<sup>2</sup>

Wisconsin's suite of "specified digital goods" is the same as the Streamlined Sales Tax Agreement's suite of specified digital products and includes "digital audio works, digital audiovisual works, and digital books."<sup>3</sup>

Digital audio works means "works that result from the fixation of a series of musical, spoken, or other sounds that are transferred electronically, including prerecorded or live music, prerecorded or live readings of a book or other written materials, prerecorded or live speeches, ringtones, or other sound recordings but not including audio greeting cards sent by electronic mail."<sup>4</sup>

Digital audiovisual works means "a series of related images that, when shown in succession, impart an impression of motion, along with accompanying sounds, if any, and that are transferred electronically."<sup>5</sup>

Digital books means "works that are generally recognized in the ordinary and usual sense as books and are transferred electronically."<sup>6</sup>

The term "additional digital goods" means greeting cards, finished artwork, periodicals, video or electronic games, and newspapers and other news or information products, if transferred electronically.<sup>7</sup> These "additional digital goods" are items that are specifically excluded from the definitions of "specified digital goods" under the Streamlined Sales Tax Agreement.<sup>8</sup>

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<sup>1</sup> Wis. Stat. § 77.52(1)(d).

<sup>2</sup> Wis. Stat. § 77.52(1)(d).

<sup>3</sup> Wis. Stat. § 77.51(17x).

<sup>4</sup> Wis. Stat. § 77.51(3pa).

<sup>5</sup> Wis. Stat. § 77.51(3p).

<sup>6</sup> Wis. Stat. § 77.51(3pb).

<sup>7</sup> Wis. Stat. § 77.51(1a)(a)(1).

<sup>8</sup> E.g., Streamlined Rules and Procedures, Rule 332.2.B. (the description of "Specified Digital Products" excludes "greeting cards" and "video or electronic games.")

Wisconsin imposes tax on specified digital goods and additional digital goods whether the right to use the goods is on a permanent or less than permanent basis and regardless of whether the purchaser is required to make continued payments.<sup>9</sup>

Sales of these products for resale are not taxed.<sup>10</sup>

### **Critique:**

#### *Clarity and ease of application:*

Wisconsin's definitions are drawn from the Streamlined project. As such, they are specific, clear, and narrow. This increases clarity but reduces the flexibility as the economy evolves. Specific definitions provide clarity but demand oversight and maintenance lest the tax base fall behind the economy.

Additionally, each limiter creates another potential point of contention. As the products offered in the economy change over time, and as similar products come into being, each limiter in a definition becomes a greater point of contention and a lesser point of clarity, decreasing clarity and ease of application.

#### *Revenue generation or stability:*

Wisconsin's expansion of the sales tax base to include "additional digital goods" in addition to "specified digital goods" contributes to revenue generation, but is more limited than the expansions chosen by other Streamlined states such as Washington and Ohio.

Wisconsin's list of specified and additional digital goods is based on items that have existed in the physical world for decades. As such, the impositions may not support tax base stability as future products may not qualify into the narrow categories created.

#### *Compatibility with other elements of the tax structure:*

Wisconsin's approach involves adding specific items to an existing list of taxable items. Most states' sales tax systems contain similar lists, providing a convenient place to insert definitions like Wisconsin's.

Wisconsin is a member of the Streamlined Sales Tax system, so its approach is compatible with that system.

#### *Pyramiding of taxes:*

Wisconsin's approach is narrow and as such will tax less items overall, meaning less tax imposition on business-to-business items. This will lead to less pyramiding than a state with a broader tax base that does not provide a broader business-to-business exemption.

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<sup>9</sup> Wis. Stat. § 77.52(1)(d).

<sup>10</sup> Wis. Stat. § 77.51(14).

*Other considerations:*

Sourcing

Narrow impositions simplify sourcing. With a smaller tax base, there are less items to source and therefore less need for numerous sourcing rules.

Exemptions

A narrow base reduces the need for exemptions, including multiple points of use exemptions.