CHAPTER 5

STATE AND LOCAL SALES TAXES

Introduction

Wisconsin's sales tax is better structured than many other states, but as a source of revenue, it is not being used to its full potential. The extent to which Wisconsin policymakers are willing to improve the sales tax—primarily through base broadening—will determine the quality and quantity of changes the state can make to the more problematic parts of its tax code, such as the corporate income tax and the individual income tax.

Wisconsin's combined state and local sales tax rate is 5.44 percent, the second lowest in the United States (excluding states with no sales taxes), and well below regional peers.

Wisconsin's sales tax is relatively simple. As Wisconsin is a member of the Streamlined Sales and Use Tax Agreement (SSUTA), its sales tax laws comply with basic standards of simplicity and uniformity adopted by almost half the states in the U.S. As a result, Wisconsin is better situated than many other states to collect sales taxes on online transactions from out-of-state retailers, tapping into a valuable and growing stream of revenue.

There is, however, plenty of room for improvement in Wisconsin sales taxation. Thirty states rely more heavily on the sales tax as a source of state and local tax revenue than Wisconsin, a fact that served as the basis for a recommended one point sales tax increase by then-Governor Doyle's Task Force on Educational Excellence in 2004. In fiscal year 2015, the sales tax was responsible for only 19.6 percent of the state's total state and local tax collections. By comparison, Indiana generates 28.7 percent of its state and local tax collections from its sales tax, and in most states the sales tax is comparable to or larger than revenue from property taxes and income taxes. Greater reliance on consumption taxes creates flexibility to rely less heavily on the more economically harmful taxes, such as corporate and personal income taxes.

Wisconsin's sales tax is also hindered by its limited application to services, a fast growing share of the U.S. economy, as well as its exemption of prominent classes of goods. While the state has taken steps to add certain services to its sales tax base, many services remain tax-free, with the state and local governments missing out on potential revenue as a result. The Wisconsin sales tax base applies to a shrinking share of the consumption economy, with resultant effects on sales tax revenue and the services that rely upon it.

In this chapter, we provide a general overview of the Wisconsin sales tax system (both state and local) and offer recommendations for modernization. We explore the Badger State's current sales tax structure, place Wisconsin's sales tax in both a regional and national context, explore options for expanding the base to include additional goods and services, consider the treatment of business inputs, and review the state's adherence to the standards for online sales tax collection established by the U.S. Supreme Court. We conclude the chapter by outlining proposals for reform, including a series of small, medium, and large base expansion options.

History of Wisconsin's Sales and Use Tax

Wisconsin's sales and use tax was adopted in 1961 and took effect in 1962, when it was imposed at a rate of 3 percent on the sale of select goods and services enumerated in law, including motor vehicles, jewelry, household furnishings, alcoholic beverages, tobacco, meals sold in restaurants, hotel rooms, telephone services, admissions, and entertainment.[79]

In 1969, Wisconsin replaced its 3 percent selective sales tax with a 4 percent general sales tax on all tangible personal property except certain goods deemed exempt. The tax remained selective in its application to only those services enumerated in the law. That same year, the state gave counties the option of adopting a 0.5 percent countywide sales tax, but the initial law required revenue be distributed to municipalities.

As a result, no county adopted a sales tax until the law was changed in 1985, allowing counties to keep some of the revenue. In 1986, Barron and Dunn counties became the first to collect local sales taxes.[80] As of January 1, 2019, 66 of the 72 counties in Wisconsin impose the optional 0.5 percent county sales and use tax.[81] In 1982, the state sales tax rate increased to 5 percent, where it remains to this day.[82]

Sales Tax Rate Composition

Wisconsin is similar to most of its regional competitors in that it has a two-part sales tax: a state-level rate that is levied throughout the entire state, and local option sales taxes that are levied in specific jurisdictions or tax districts. Wisconsin's sales tax currently consists of a 5 percent general state sales tax, an optional 0.5 percent state-collected county sales tax with revenues remitted to counties that have adopted the tax, and a 0.1 percent sales tax levied in the Southeast Wisconsin Professional Baseball Park District, which is comprised of Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties. Accordingly, the total state and local sales tax rate in any given county is either 5.0 percent, 5.1 percent, 5.5 percent, or 5.6 percent.

As of July 1, 2018, when each county's local rate was weighted according to population, the average local rate was 0.44 percent, for an average statewide combined state and local sales tax rate of 5.44 percent, one of the lowest combined sales tax rates in the country (Figure 5a). Among states that levy state or local sales taxes, only three states have combined rates lower than Wisconsin's: Wyoming (5.39 percent), Hawaii (4.35 percent), and Alaska (1.76 percent). It is important to note that major anomalies in Hawaii and Alaska's sales taxes contribute to their low rates.[83] As such, Wisconsin's combined

79 Wisconsin Department of Revenue and Department of Administration, "Summary of Tax Exemption Devices," February 2017, 57, https://www.revenue.wi.gov/DORReports/17sumrpt.pdf.

80 "Nickels and Dimes: The Wisconsin Sales Tax," *The Wisconsin Taxpayer* 74, no. 2 (February 2006), 5, https://wistax.org/publication/download/nickels-and-dimes-the-wisconsin-sales-tax.

81 "Sales Tax Clearinghouse data; Tax Foundation calculations.

82 Ibid., 57.

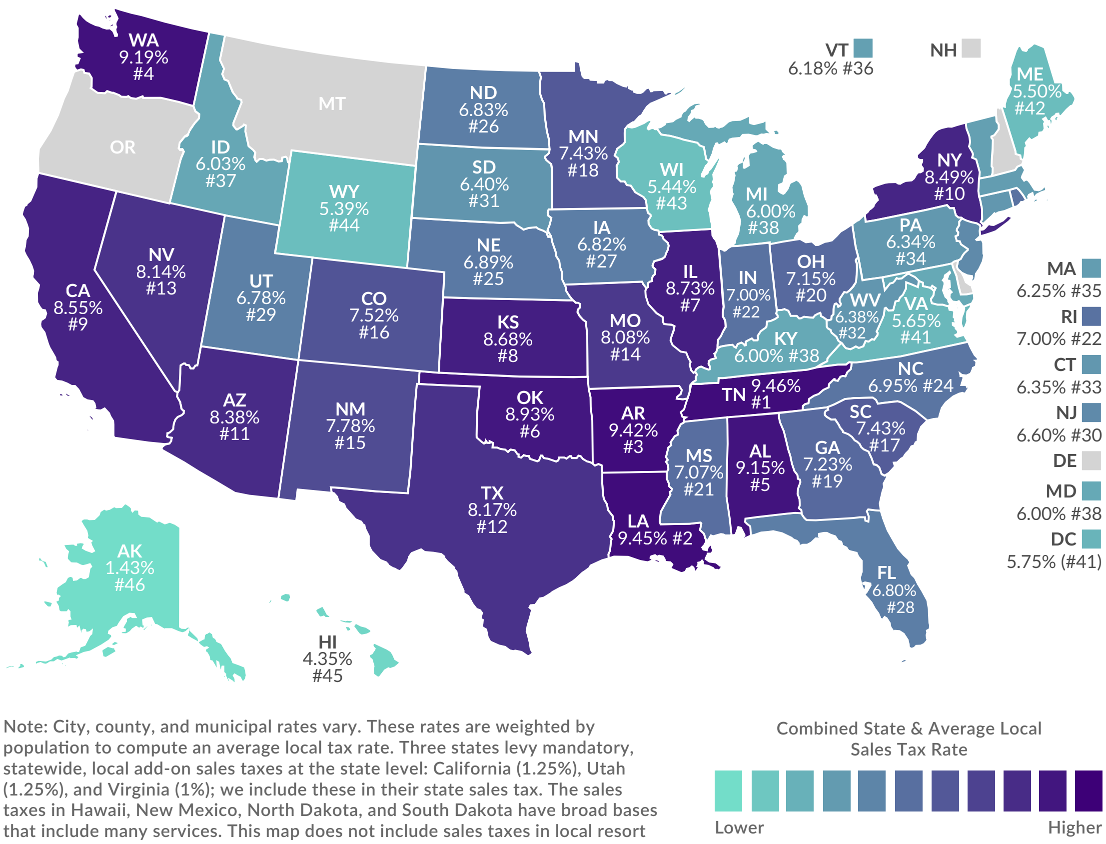
83 Hawaii's sales tax base is so broad that it is larger than the size of the state's economy due to multiple layers of taxation applied to the same product or service. This "tax pyramiding" is considered by most experts to be economically damaging. As a result, even with its low rate, Hawaii has the highest sales tax collections per capita. Alaska has the lowest combined rate because the state allows local sales taxes but does not have a state-level sales tax.

sales tax rate is the second lowest among states that levy both state and local sales taxes and have a base similar to Wisconsin's.

FIGURE 5a.

Sales Tax Rates by State

Combined State & Average Local Sales Tax Rates, July 1 2018



Note: City, county, and municipal rates vary. These rates are weighted by population to compute an average local tax rate. Three states levy mandatory, statewide, local add-on sales taxes at the state level: California (1.25%), Utah (1.25%), and Virginia (1%); we include these in their state sales tax. The sales taxes in Hawaii, New Mexico, North Dakota, and South Dakota have broad bases that include many services. This map does not include sales taxes in local resort areas in Montana. Salem County is not subject to the statewide sales tax rate and collects a local rate of 3.3125%. New Jersey's average local score is represented as a negative.

Source: Sales Tax Clearinghouse, Tax Foundation calculations, State Revenue Department websites.

Not only is Wisconsin's 5.44 percent combined state and average local sales tax rate one of the lowest in the country, but its 5 percent state sales tax rate alone is also relatively low. Thirty-two states have higher state sales tax rates than Wisconsin, and Wisconsin's rate is significantly lower than the rates in neighboring states. Table 5a shows the state, average local, and combined sales tax rates in Wisconsin and bordering states. Among its neighbors, Wisconsin is the only state with a sales tax rate below 6 percent.

TABLE 5a.

Average Combined State and Local Sales Tax Rates

Wisconsin and Nearby States (July 2018)

State	State Rate	Avg. Local Rate	Total Rate	National Rank
Illinois	6.25%	2.48%	8.73%	7
Indiana	7.00%	--	7.00%	22
Iowa	6.00%	0.82%	6.82%	27
Michigan	6.00%	--	6.00%	38
Minnesota	6.875%	0.55%	7.43%	18
Wisconsin	5.00%	0.44%	5.44%	43

Source: Tax Foundation, "State and Local Sales Tax Rates 2018, Midyear 2018."

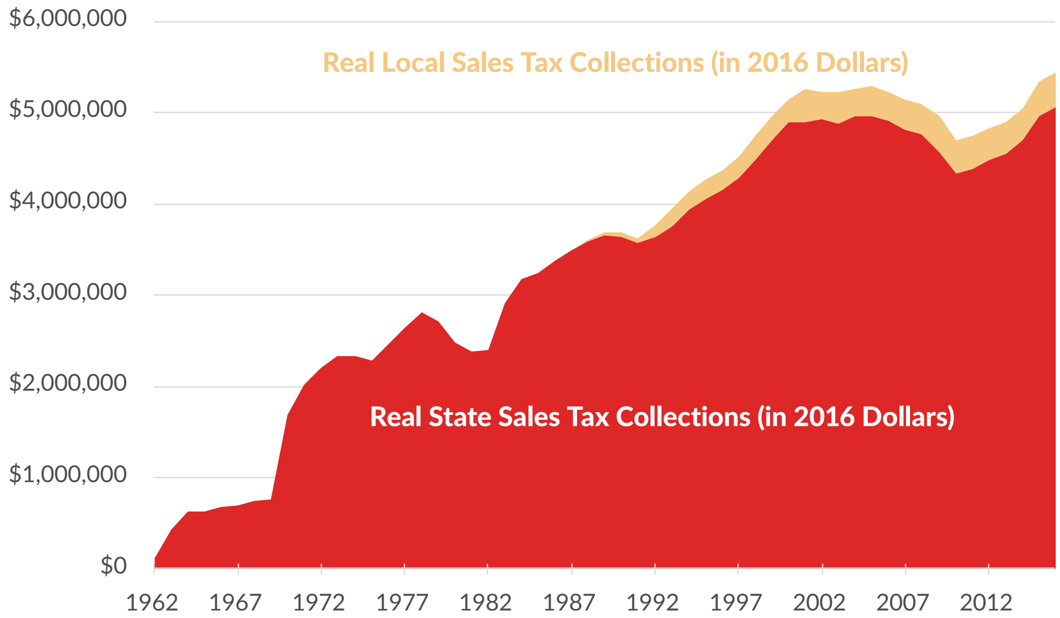
Sales Tax Collections

The sales tax is one of the primary sources of state tax revenue in Wisconsin. In fiscal year 2016, the sales tax generated 28.7 percent of Wisconsin's total state tax collections, lower than the individual income tax, which generated 42.5 percent of total collections, but more than any other single source of state tax revenue. Nationwide, the average state's sales tax comprises approximately 31.5 percent of state tax collections.[84]

Since Wisconsin's sales tax was first collected in 1962, sales tax collections have grown significantly over time, even after adjusting for inflation (Figure 5b). Between 1990 and 2016, combined state and local sales tax collection grew by 48 percent in real dollars.

FIGURE 5b.

Wisconsin State and Local Sales Tax Collections, 1962–2016 (in Thousands of 2016 Dollars)



Source: U.S. Census Bureau, State Government Tax Collections.

84 U.S. Census Bureau, "2015 State & Local Government Finance Historical Datasets and Tables," https://www.census.gov/data/datasets/2015/econ/local/public-use-datasets.html.

Sales Tax Base Composition

Like most states, Wisconsin imposes its sales tax on a base that consists primarily of goods—with economically significant policy carveouts—and relatively few services. Wisconsin's general sales tax applies to the purchase of tangible personal property, or goods, unless specifically exempted under the law. By contrast, the sales tax does not apply to the purchase of services except those specifically enumerated in law. Although Wisconsin's sales tax base is somewhat broader than the average state's, it falls short of what most public finance scholars would define as optimal.

Taxation of Goods

Goods that have been explicitly exempted from Wisconsin's sales and use tax include grocery foods, prescription drugs, bottled water, gasoline, residential energy, and newspapers, among others. In fiscal year 2016, sales tax exemptions for food, bottled water, and motor fuels alone amounted to nearly $1.02 billion in forgone revenue.[85]

Many of these goods have been exempted from the sales tax base for political reasons. While most states face political pressure to exempt certain goods from their sales tax base, eliminating these exemptions would allow states to significantly lower sales tax rates or the rates of more economically damaging taxes while generating the same amount of revenue, and in a more stable fashion.

TABLE 5b.

Wisconsin's Tax Exemptions for Consumer Goods with Value of $1 Million and Above, Fiscal Year 2016

Exemption	Amount
Food and Food Ingredients (not including bottled water)	$601,900,000
Motor Fuels	$390,100,000
Prescription Drugs and Medicines (excluding insulin)	$172,600,000
Fuel and Electricity for Residential Use	$144,600,000
Water Sold through Mains	$25,100,000
Bottled Water	$23,300,000
Medical Devices (including wheelchairs, home oxygen equipment)	$20,100,000
Newspapers, Periodicals, and Shoppers Guides	$13,300,000
Insulin and Equipment Used in the Treatment and Testing of Diabetes	$8,300,000
Meals Furnished by Institutions of Higher Education	$7,700,000
Caskets and Burial Vaults	$5,100,000
Self-Service Laundry and Self-Service Dry-Cleaning Services	$1,900,000

Source: Wisconsin Department of Revenue and Department of Administration, "Summary of Tax Exemption Devices," 2017.

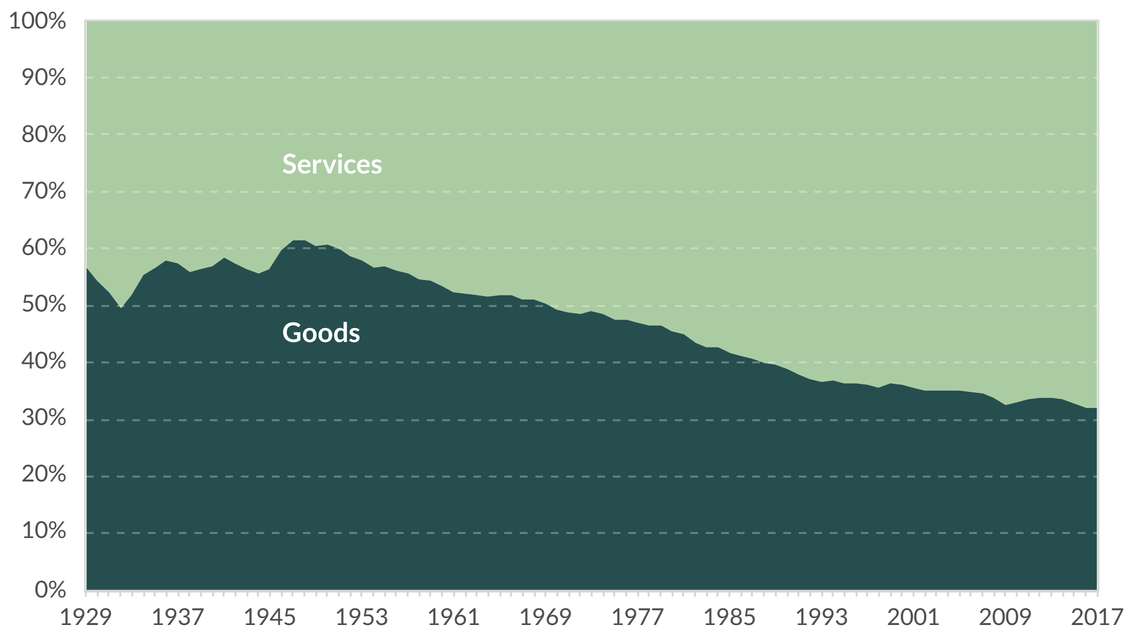
85 Wisconsin Department of Revenue and Department of Administration, "Summary of Tax Exemption Devices," 60.

Taxation of Services

Most states, including Wisconsin, by default exclude most services from their sales tax base. This exclusion is a historical accident, as services represented a much smaller share of economic activity in the 1930s when state sales taxes were first enacted. Prior to the sales tax, the property tax served as the primary revenue generator for state and local governments. However, the decline in property values during the Great Depression brought with it a decline in property tax collections, and individual and corporate income taxes also became less productive from a revenue-generating standpoint.[86] These revenue constraints, coupled with increased spending mandates from the federal government, caused states to turn to the sales tax as a supplemental source of revenue. At the time, manufacturing was the primary driver of economic activity, so taxes that applied only to the sale or use of tangible goods were sufficient for generating revenue. Over time, however, the U.S. economy shifted from manufacturing-based to service-based, and Americans are now purchasing more services than goods as a percentage of total consumption (Figure 5c).

FIGURE 5c.

Percentage of Total Personal Consumption Expenditures Goods vs. Services, U.S., 1929-2017



Source: Bureau of Economic Analysis, Regional Economic Accounts.

When Wisconsin first enacted its sales tax, it applied only to tangible personal property and did not include many services. Over time, however, certain services were added to Wisconsin's sales tax base, including cable television and installation services (1975), interstate telephone and telegraph services (1982), landscaping services (1982), coin-operated telephone services (1996), and personal telephone services (1996). Other taxable services include admissions to athletic, amusement, entertainment, and recreational events; laundry and dry-cleaning services; hotel lodging; internet access;

86 Nicole Kaeding, "Sales Tax Base Broadening: Right-Sizing a State Sales Tax," Tax Foundation, Oct. 24, 2017, https://taxfoundation.org/sales-tax-base-broadening/.

photography; parking and storage; repair, inspection, and maintenance services; and motor vehicle towing services.[87]

While Wisconsin has taken steps to modernize its sales tax over time, many prominent categories of services remain excluded, such as legal services, computer services, healthcare services, and personal care services (haircuts, pedicures, etc.). In 2016, the state missed out on an estimated $1.1 billion in revenue due to its exclusion of certain services from the sales tax base (Table 5c).

TABLE 5c.

Wisconsin's Tax Exemptions for Consumer Services with Value of $1 Million and Above, Fiscal Year 2016

Exemption	Amount
Services of Physicians, Dentists, and Other Health Professionals	$606,600,000
Legal Services	$118,400,000
Architectural, Engineering, Testing Laboratory, and Surveying Services	$104,800,000
Accounting Services	$60,800,000
Commissions to Real Estate Brokers	$50,000,000
Sewerage Services	$36,200,000
Beauty, Barber, Nail, and Other Personal Care Services	$33,300,000
Veterinary Services for Pets	$26,300,000
Health Clubs	$22,000,000
Funeral Services, excluding Caskets and Vaults	$14,300,000
Dues and Fees Paid to Business Associations and Fraternal Organizations	$13,900,000
Bank Account Service Charges	$8,200,000
Admissions to Educational Events and Places	$6,100,000
Tax Preparation Services	$5,400,000
Disinfecting and Exterminating	$4,900,000
Auto and Travel Clubs	$3,700,000
Interior Design	$3,400,000

Note: Estimates for some services such as legal services include some business-to-business transactions in addition to consumer transactions.
Source: Wisconsin Department of Revenue and Department of Administration, "Summary of Tax Exemption Devices," 2017.

Sales Tax Breadth

Ideally, the sales tax should apply to all final personal consumption. This allows the base to be as broad as possible without taxing business-to-business transactions. This approach results in the lowest possible rate, while creating neutrality in the tax, by not favoring one class of items to another.

The trend toward service consumption over goods consumption, paired with political pressure to exempt goods from the sales tax base, however, has contributed to the erosion of state sales tax bases, meaning state sales tax bases, including in Wisconsin, fall far from this ideal standard.

87 Wisconsin Department of Revenue and Department of Administration, "Summary of Tax Exemption Devices."

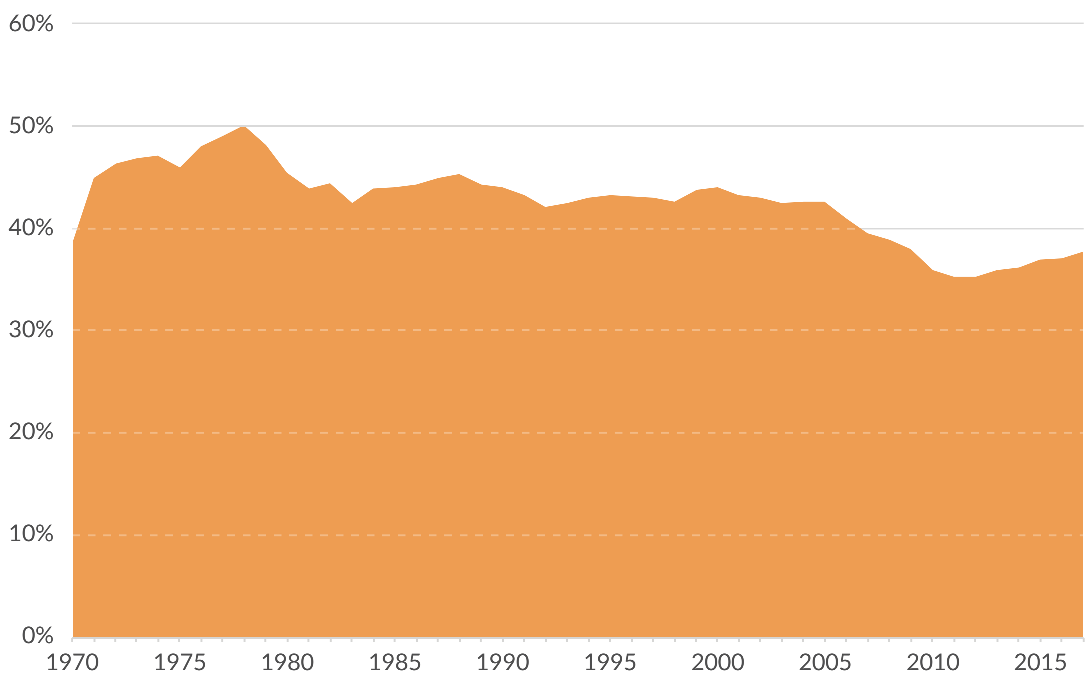
To combat base erosion, Wisconsin should reconsider its exemption of certain goods from the sales tax base, such as groceries, bottled water, newspapers, and others. Further, the state should broaden its sales tax base by applying the sales tax to additional services as the economy becomes increasingly service-oriented.

Because sales tax bases vary widely from state to state, it can be difficult to objectively compare one state's sales tax base to another's. One useful method, however, is to calculate the value of taxed transactions as a percentage of total personal income in the state. Wisconsin's sales tax breadth as a percentage of state income is 37 percent, putting it in the middle of the pack compared to other states,[88] meaning the state's sales tax base is broader than some, but narrower than others. A robust sales tax base would not reach 100 percent without double taxation—as not all income is consumed in any given year—but could tax as much as 75 percent of state income. Goods and services combined, Wisconsin has a sales tax base that is broader than Illinois and comparable to Iowa and Minnesota but narrower than Michigan.

Though Wisconsin's sales tax is relatively young (dating to 1963, while most state sales taxes date to the 1930s), there is still an observable erosion in the base since the 1970s (Figure 5d).

FIGURE 5d.

Wisconsin Sales Tax Breadth, 1970-2017



Source: Prof. John Mikesell, Indiana University

88 Nicole Kaeding, "Sales Tax Base Broadening: Right-Sizing a State Sales Tax" (citing work by Professor John Mikesell of Indiana University).

Taxation of Business Inputs

When contemplating broadening the sales tax base, it is important to maintain proper treatment of business inputs. A well-structured sales tax is imposed on all final consumer goods and services while exempting all purchases made by businesses that will be used as inputs in the production process. This is not because businesses deserve special treatment under the tax code, but because applying the sales tax to business inputs results in multiple layers of taxation embedded in the price of goods once they reach final consumers, a process known as "tax pyramiding." The result is higher and inequitable effective tax rates for different industries and products, which is both nonneutral and nontransparent.

Ideally, business inputs would be exempted based upon the identity of the purchaser. In practice, however, states must generally make binary choices which are not always entirely clear-cut, as there are many goods and services which are consumed by businesses and individuals alike. For instance, when a business retains an outside accounting firm, that is clearly a business input, but individuals sometimes hire accountants as well.

Sometimes this problem can be resolved, albeit imperfectly, by considering typical use. While a select few individuals might occasionally rent a cold storage facility or take out advertising, these services are overwhelmingly purchased by businesses, and the rare exception should not guide policy. A more interesting case arises with goods that are consumed by both businesses and individuals but which, when used by businesses, are not a direct part of the production process.

Businesses and individuals both buy desk chairs and both procure landscaping services. In such cases, exemption certificates are optimal, as they can address the use case of the company ordering a thousand desk chairs.

Nonprofits and agricultural purchasers are often granted exemption certificates that exempt transactions from sales taxes based on the purchaser's identity rather than a determination of whether the good or service is most likely to be purchased by a business or a consumer. The chief shortcoming of exemption certificates is the administrative hassle they create for the state, the seller, and the purchaser alike. A policy of exempting transactions that are overwhelmingly or exclusively business inputs, while allowing exemption certificates to be used to avoid tax on mixed-use goods and services when the purchaser is a business, represents the best available policy option.

While most states make some effort to exclude business inputs from taxation, few do so consistently or uniformly. Wisconsin has taken steps to address the taxation of business inputs, exempting farm equipment, manufacturing machinery and raw materials, and business fuel and utilities from the sales tax. Nevertheless, other inputs continue to be subject to the tax, undermining tax neutrality and allowing tax costs to be embedded in the final price of goods several times over.

Wisconsin's Sales Tax Holiday is a Base-Narrower

In 2018, Wisconsin was one of 17 states to hold a "sales tax holiday," where certain items are temporarily exempt from the sales tax. Some states have written sales tax holidays into their tax code to occur on a repeated basis, but Wisconsin's sales tax holiday was a one-time occurrence that will not be repeated unless enacted by future legislation, and ideally, Wisconsin will not continue the holiday.

The 2018 sales tax holiday was the first sales tax holiday in Wisconsin's history, designed to provide sales tax relief on "back-to-school" items purchased between August 1st and 5th, 2018. Eligible goods included clothing priced at no more than $75, computers and computer supplies priced at no more than $750 and $250, respectively, and purchased for personal (not business) use, and school supplies priced at $75 or less per item. The state Department of Revenue estimated the holiday resulted in $14.8 million in forgone revenue.[89]

The literature on sales tax holidays tends to show that they do not have a stimulative economic effect, and instead merely shift the timing of purchases that would have occurred anyway into the holiday period. Reports from retailers show a significant complexity to complying with the holiday as well, as the state essentially enacts a second, different sales tax code for just a few days out of the year.[90]

Taxation of E-Commerce

The rise of e-commerce also plays a role in the erosion of state sales tax bases. Prior to the U.S. Supreme Court's ruling in *South Dakota v. Wayfair*,[91] retailers were obligated to collect and remit sales taxes only in states in which they had a physical presence, defined as having property or employees within the state. The geographic limitation on the scope of state sales tax authority, as defined in *Quill v. North Dakota*,[92] became increasingly concerning to states as online transactions drove remote sales upward.

The *Quill* decision was handed down in 1992, near the low ebb of remote sales, when the mail-order businesses of the twentieth century, such as Sears Roebuck, Montgomery Ward, and Bella Hess (itself the subject of a prior Supreme Court ruling on the taxation of remote sales) were either gone or on their last legs. Today, however, interstate sales are much more common, and online sales account for a substantial share of consumption expenditures. Americans spent about $453.5 billion in internet retail purchases in 2017, representing a 16 percent increase over the previous year and comprising about 8.9 percent of total retail sales.[93] This growth rate has been fairly steady, and it is likely that e-commerce will continue to grow as a share of national retail sales, making reliable

89 Glen Moberg, "Walker Touts Back-To-School Sales Tax Holiday Starting Wednesday," Wisconsin Public Radio, July 31, 2018, https://www.wpr.org/walker-touts-back-school-sales-tax-holiday-starting-wednesday.

90 Scott Drenkard and Joseph Bishop-Henchman, "Sales Tax Holidays: Politically Expedient but Poor Tax Policy, 2018," Tax Foundation, July 17, 2018, https://taxfoundation.org/sales-tax-holidays-politically-expedient-poor-tax-policy-2018/.

91 *South Dakota v. Wayfair, Inc.*, 585 U.S. ___, slip op. (2018).

92 *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992).

93 U.S. Department of Commerce, "Quarterly Retail E-Commerce Sales 1st Quarter 2018," U.S. Census Bureau News, May 17, 2018, https://www2.census.gov/retail/releases/historical/ecomm/18q1.pdf. This percentage continues to rise, and hit 9.5 percent of total sales in the first quarter of 2018, compared to 8.5 percent in the first quarter of 2017.

collection of sales and use taxes all the more important.

South Dakota v. Wayfair

On June 21, 2018, the U.S. Supreme Court handed down a landmark decision in *South Dakota v. Wayfair*, overturning the *Quill* physical presence standard and allowing states to require out-of-state retailers to collect and remit state and local sales taxes. Importantly, the *Wayfair* decision did not offer states a blank check to require all retailers everywhere to collect their sales tax. In fact, the *Wayfair* majority opinion outlined several features of South Dakota's remote sales tax law that "appear designed to prevent discrimination against or undue burdens upon interstate commerce,"[94] sending a strong signal to states regarding the types of baseline standards they should implement into their sales tax laws to avoid being struck down as unconstitutional.

Those features, sometimes referred to as the *Wayfair* "checklist,"[95] are as follows:

1. **Safe harbor:** Exclude "those who transact only limited business" in the state. (South Dakota's law only requires retailers to collect the sales tax if they make $100,000 worth of sales or engage in 200 transactions in a given state.)

2. **No retroactive collection**.

3. **Single state-level administration** of all sales taxes in the state.

4. **Uniform definitions** of products and services.

5. **Simplified tax rate structure**. (South Dakota requires the same tax base between state and local sales taxes, has only three sales tax rates, and has limited exemptions from the tax.)

6. **Software:** Access to sales tax administration software is provided by the state.

7. **Immunity:** Sellers who use the software are not liable for errors derived from relying on it.

The *Wayfair* decision leaves states with important policy decisions to make, such as setting safe harbor thresholds and enforcement dates, simplifying the process by which they collect state and local sales taxes, making their sales tax bases less complex, and deciding how to use the revenue.

94 *Wayfair*, 585 U.S. ___ at 23.

95 See Joseph Bishop-Henchman, "Testimony: Post-Wayfair Options for Congress," Tax Foundation, July 24, 2018, https://taxfoundation.org/post-wayfair-options-congress/; and Georgia State University, Center for State and Local Finance, "Supreme Court Wayfair Decision Offers Blueprint for States," July 16, 2018, https://cslf.gsu.edu/2018/07/16/supreme-court-wayfair-dakota-nexus/.

Wisconsin is Poised to Benefit from the *Wayfair* Decision

Wisconsin satisfies the key components of the *Wayfair* "checklist" and, as of October 1, 2018, had begun requiring remote sellers to collect its state and local sales taxes. Like South Dakota, Wisconsin has adopted the Streamlined Sales and Use Tax Agreement and is a member of the Streamlined Sales Tax Project (SSTP), thereby requiring sellers to file with only the state—not local governments—when registering to collect Wisconsin's state and local sales taxes.

Similarly, in Wisconsin, definitions of products and services are consistent at the state and local levels, meaning if a product or service is taxable at the state level, it is also taxable at the local level for those localities which choose to levy a local sales tax. In addition, Wisconsin's general sales tax has a limited number of rates—just one state rate (5 percent), one optional local rate (0.5 percent), and the 0.1 percent Southeast Wisconsin Professional Baseball Park District rate. On any given transaction, Wisconsin's sales tax either applies or it does not; Wisconsin law does not allow the state or local governments to apply different sales tax rates to different types of goods and services. Illinois, however, does apply different sales tax rates to different goods: while the general sales tax rate is 6.25 percent, groceries are taxed at a 1.00 percent sales tax rate.[96] The *Wayfair* decision discourages this application of differential rates to different components of a state's sales tax base, and Wisconsin is at an advantage compared to states with several different sales tax rates. Finally, Wisconsin has a central electronic registration system run through the SSTP, which is available to remote sellers who register to collect the state's sales tax.

With respect to the safe harbor component (how much business an out-of-state vendor must conduct before being subject to Wisconsin sales taxes), in December 2018, 2017 Wisconsin Act 368 was enacted, establishing for Wisconsin a safe harbor from sales tax collection requirements for retailers with less than $100,000 in sales or fewer than 200 transactions in Wisconsin, consistent with South Dakota's law.[97] Finally, the DOR has not sought to enforce its new rules retroactively.[98]

According to the DOR"s initial projections, expanded remote sales tax collection is expected to generate $90 million in additional sales and use tax revenue for Wisconsin in 2018-2019, followed by $120 million in fiscal year 2019-2020. In addition, expanded remote collection of local sales taxes and the Southeast Wisconsin Professional Baseball Park District sales tax is expected to generate a total of $7.7 million in local revenue in 2018-2019 and $10.3 million in 2019-2020.[99]

96 Morgan Scarboro, "Facts and Figures 2018: How Does Your State Compare?" Tax Foundation, March 21, 2018, Table 32, https://taxfoundation.org/facts-figures-2018/.

97 Wisconsin Legislature: 137.01. Accessed January 22, 2019, https://docs.legis.wisconsin.gov/2017/related/acts/368.

98 Wisconsin State Legislature, "EmR1819 Rule Text," accessed Sept. 21, 2018, https://docs.legis.wisconsin.gov/code/register/2018/753A2/register/emr/emr1819_rule_text/emr1819_rule_text.

99 Wisconsin Legislative Fiscal Bureau, "*South Dakota v. Wayfair, Inc.*—Sales and Use Tax Collections on Remote Sales," July 2, 2018, http://docs.legis.wisconsin.gov/misc/lfb/misc/165_south_dakota_v_wayfair_inc_sales_and_use_tax_collections_on_remote_sales_7_2_18.pdf.

However, those estimates were revised downward in November of 2018. The Wisconsin Legislative Fiscal Bureau wrote that the $120 million revenue was now only estimated at $60 million annually, due to "lower observed compliance than originally expected."[100]

In December of 2018, policymakers in Wisconsin decided how to allocate this additional revenue. According to Act 368, any revenue collected from October 1, 2018 to September 30, 2019 from "out-of-state retailers" will be dedicated to reducing individual income tax rates for the "tax year ending on December 31, 2019."[101] If the state collects $60 million in new revenues, the DOR estimates that individual income tax rates, in every bracket, will decrease by approximately 0.04 percent.[102]

Sales Tax Reform Solutions

Wisconsin's sales tax begins with a broader base than is found in many states, but it remains too narrow to grow with today's service-oriented economy. Carveouts for select goods further reduce revenue stability and require higher rates than might otherwise be necessary. Since Wisconsin's sales tax has a relatively simple structure and a competitive rate, our recommendations focus on broadening the sales tax base to include additional goods and services, which can help generate the revenue to "pay for" structural changes and rate reductions elsewhere in the tax code; namely, to the corporate income tax and the individual income tax.

Base-Broadening Options

A well-structured sales tax applies to all final consumer purchases, both goods and services, while exempting business inputs. Currently, the Wisconsin sales tax specifically exempts a significant number of consumer transactions which, if included in the base, would permit rate reductions elsewhere in the tax code.

Lawmakers should consider expanding the sales tax base with additional goods and services while exempting business inputs. Table 5d shows three options for base broadening, where the "small" option adds a few additional consumer goods and services to the sales tax base, and the "large" option is the broadest, adding nearly all consumer goods and services that currently enjoy an exemption.

100 Wisconsin Legislative Fiscal Bureau, "December 2018 Extraordinary Session Bills," Nov. 30, 2018, http://docs.legis.wisconsin.gov/misc/lfb/bill_summaries/2017_19/0001_december_extraordinary_session_bills_11_30_18.pdf.

101 2017 Wisconsin Act 368, Section 13.

102 Wisconsin Department of Administration, Division of Executive Budget and Finance, "Fiscal Estimate-2017 Session, LRB Number 17-6075/1," https://docs.legis.wisconsin.gov/2017/related/fe/sb883/sb883_DOR.pdf.

TABLE 5d.
Sales Tax Base-Broadening Options

	Small Base Broadening	Moderate Base Broadening	Large Base Broadening
Beauty, Barber, Nail, and Other Personal Care Services	✓	✓	✓
Newspapers, Periodicals, and Shoppers Guides	✓	✓	✓
Veterinary Services for Pets	✓	✓	✓
Health Clubs	✓	✓	✓
Auto and Travel Clubs	✓	✓	✓
Interior Design	✓	✓	✓
Tax Preparation Services	✓	✓	✓
Disinfecting and Exterminating	✓	✓	✓
Admissions to Educational Events and Places	✓	✓	✓
Self-Service Laundry and Dry-Cleaning Services	✓	✓	✓
Meals Furnished by Institutions of Higher Education*	✓	✓	✓
Bank Account Service Charges	✓	✓	✓
Fuel and Electricity for Residential Use	✓	✓	✓
Caskets and Burial Vaults	✓	✓	✓
Accounting Services *	✓	✓	✓
Sewerage Services	✓	✓	✓
Food and Food Ingredients (not including bottled water)	✓	✓	✓
Bottled Water	✓	✓	✓
Funeral Services, excluding Caskets and Vaults	✓	✓	✓
Dues and Fees Paid to Business Associations and Fraternal Organizations	✓	✓	✓
Motor Fuels		✓	✓
Legal Services		✓	✓
Prescription Drugs and Medicines (excluding insulin)			✓
Insulin and Equipment Used in the Treatment and Testing of Diabetes			✓
Medical Devices (including Wheelchairs, Home Oxygen Equipment)			✓
Medical Devices (including wheelchairs, home oxygen equipment)			✓

Sales Tax Rates

In many ways, the robustness of the reforms to corporate and individual income tax structures in Wisconsin is dependent on what legislators plan to do for sales tax reform. All four of our comprehensive tax reform options rely on sales tax base broadening, though the extent of this base broadening varies. Option A employs moderate base broadening while raising the sales tax rate to 5.75 percent. Options B and D employ moderate base broadening while keeping the sales tax rate at 5 percent. Option C includes large base broadening and a slightly higher sales tax rate of 5.2 percent.

Potential Windfall to Local Governments from Sales Tax Base Expansion

Because Wisconsin's state and local sales tax bases are uniform, expansion of the sales tax base at the state level would result in a broader base for county governments as well, increasing revenue for these governments. The state could permit the windfall to counties to occur, revisit the level of local option sales tax rates in proportion to the broader base, or limit base expansion for local option sales taxes. Any windfall would likely be uneven across the state, depending on what goods and services the sales tax base covers and the prevalence of those activities in particular counties.

Impact of Sales Tax Solutions on Real People

The chart below shows how individual taxpayers would be impacted by the sales tax provisions in our comprehensive tax reform solutions. Because each of our comprehensive tax reform solutions is approximately revenue-neutral, most taxpayers would pay less in income taxes while paying more in sales taxes under Options A, B, C, and D.

How Wisconsin Tax Reform Options Affect Real People (State Sales Tax Liability)

	Current Wisconsin Tax System	Option A	Option B	Option C	Option D
Abigail One child Income: $15,000 Filing Status: Head of Household	$525	$801	$697	$744	$697
Patrick & Samantha Retired no children Income: $36,000 Filing Status: Married Filing Jointly	$600	$915	$797	$850	$797
Daniel Single no children Income: $50,000 Filing Status: Single	$800	$1,220	$1,062	$1,134	$1,062
Jason & Nicole Two children Income: $75,000 Filing Status: Married Filing Jointly	$1,088	$1,659	$1,444	$1,542	$1,444
Monique Single no children Income: $100,000 Filing Status: Single	$1,300	$1,983	$1,726	$1,842	$1,726
Peter & Kelsey Two children Income: $150,000 Filing Status: Married Filing Jointly	$1,875	$2,860	$2,489	$2,657	$2,489

Source: Tax Foundation calculations using data from Bureau of Labor Statistics's Consumer Expenditure Survey and Wisconsin Department of Revenue. Excludes local sales taxes, excise taxes, federal tax liability, and other local taxes. Sales tax base calculation assumptions used average estimates from national Consumer Expenditure Survey data. Assumes households at $15,000 spend 70 percent of income on taxable purchase at the current sales tax base; at $36,000, 33 percent; at $50,000, 32 percent; at $75,000, 29 percent; at $100,000, 26 percent; at $150,000, 25 percent. Calculations resulted in a medium tax base (Options A, B, and D) that is 32.7 percent larger than the current base and a large sales tax base (Option C) that is 41.7 percent larger than the current base.

It is important to keep in mind that part of the purpose of sales tax base broadening is to make sales tax collections more stable than they are under current law, making future tax rate increases less likely. However, should lawmakers wish to make structural improvements to the tax code, including sales tax base broadening, while simultaneously offering more taxpayers an overall tax cut, other options could be considered, such as deeper income tax rate reductions or a combination of income and sales tax rate reductions.

For example, the inclusion of groceries in Wisconsin's sales tax base would result in taxpayers of every income level paying more in sales taxes than they do under current law. To mitigate the impact of sales tax increases on lower-income residents, these base-broadening reforms could be accompanied by reforms to the existing Earned Income Tax Credit (EITC), a refundable tax credit for low- and moderate-income working individuals and families, to make the credit more generous.

Another option would be to offer a new and separate credit to offset the impact of sales tax base broadening provisions on low- and middle-income taxpayers. Idaho is an example of a state that applies its sales tax to groceries but offers a refundable "grocery credit" to offset sales taxes paid on groceries throughout the year.[103]

103 Idaho State Tax Commission, "Idaho Grocery Credit," Accessed February 3, 2019, https://tax.idaho.gov/i-1043.cfm.