

Assembly Hearing Slip

(Please print plainly)

Date: 1/12/2000
Bill No. AB 634
Or
Subject
Rep Michael Lehman
(Name)
1036 Mt Carmel
(Street Address or Route Number)
Madison
(City & Zip Code)
Lehman
(Representing)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 1/12/00
Bill No. AB 634
Or
Subject
Tom O'wade - Diane Hubt
(Name)
DOR
(Street Address or Route Number)
(City & Zip Code)
(Representing)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 1-12-00
Bill No. AB 634
Or
Subject
Doklands Leest
(Name)
16826 Boyd Drive
(Street Address or Route Number)
Portage WI 53914
(City & Zip Code)
Panting Industries of WI
(Representing)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 1-12-00
Bill No. AB 634
Or
Subject

Pete Christianson
(Name)
1 S. Pinckney Smit 600
(Street Address or Route Number)
MSA, WI 53701-2113
(City & Zip Code)
Printing Industries of
(Representing) Wisconsin

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 1-12-2000
Bill No. AB 634
Or
Subject

Wayne W. Wood
(Name)
2429 Rockport R.
(Street Address or Route Number)
JANESVILLE WI 53545
(City & Zip Code)
44th Assembly Dist
(Representing)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms:
Room 411 West
State Capitol
Madison, WI 53702

Assembly Hearing Slip

(Please print plainly)

Date: 1/12/2000
Bill No. AB 634
Or
Subject

BRADEON SCHOLZ
(Name)
2601 CROSSROADS DR #185
(Street Address or Route Number)
MADISON 53718
(City & Zip Code)
WISCONSIN GRASSL ASSN
(Representing)

- Speaking in favor:
- Speaking against:
- Registering in favor:
- Registering against:
- Speaking for information only:
- Neither for nor against:

Please return this slip to a messenger promptly.

Assembly Sergeant at Arms
Room 411 West
State Capitol
Madison, WI 53702

Assembly Committee on Ways and Means

DATE _____

Moved by _____

Wood

Seconded by _____

Syk

AB 634

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

A _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

Passage

Introduction

Adoption

Rejection

Indefinite Postponement

Tabling

Concurrence

Nonconcurrence

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Mickey Lehman, chair	1			
2.	Rep. Tom Sykora, vice-chair	2			
3.	Rep. Bob Goetsch	✓			
4.	Rep. Mike Huebsch	3			
5.	Rep. Frank Lasee	✓			
6.	Rep. John Ainsworth	4			
7.	Rep. Suzanne Jeskewitz				
8.	Rep. Carol Owens	5			
9.	Rep. Joan Spillner	6			
10.	Rep. Wayne Wood	7			
11.	Rep. John La Fave	8			
12.	Rep. Lee Meyerhofer				
13.	Rep. Johnnie Morris-Tatum	9			
14.	Rep. Jeffrey Plale	✓			
15.	Rep. Bob Turner	10			
16.	Rep. Bob Ziegelbauer	11			
	Totals				

MOTION CARRIED

MOTION FAILED

Assembly Committee on Ways and Means

DATE _____

Moved by Wood Seconded by Leh

AB 634 SB _____ Clearinghouse Rule _____

AJR _____ SJR _____

A _____ SR _____ Other _____

A/S Amdt LRB 1140

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

*into
w/ Ais*

Be recommended for:

Passage

Introduction

Adoption

Rejection

Indefinite Postponement

Tabling

Concurrence

Nonconcurrence

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2.	Rep. Tom Sykora, vice-chair	2			
3.	Rep. Bob Goetsch	✓			
4.	Rep. Mike Huebsch	3			
5.	Rep. Frank Lasee	✓			
6.	Rep. John Ainsworth	4			
7.	Rep. Suzanne Jeskewitz				
8.	Rep. Carol Owens	5			
9.	Rep. Joan Spillner	6			
10.	Rep. Wayne Wood	7			
11.	Rep. John La Fave	8			
12.	Rep. Lee Meyerhofer				
13.	Rep. Johnnie Morris-Tatum	9			
14.	Rep. Jeffrey Plale	✓			
15.	Rep. Bob Turner	10			
16.	Rep. Bob Ziegelbauer	11			
	Totals				

MOTION CARRIED

MOTION FAILED

Assembly Committee on Ways and Means

DATE _____

Moved by Hub

Seconded by SP Sp. 1

AB 634

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

A _____

SR _____

Other _____

A/S Amdt LRB 1146

A/S Amdt _____

to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____

to A/S Sub Amdt _____

A/S Amdt _____

to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

Passage

Introduction

Adoption

Rejection

Indefinite Postponement

Tabling

Concurrence

Nonconcurrence

*Intro
H/Syk*

	Committee Member	Aye	No	Absent	Not voting
1.	Rep. Mickey Lehman, chair	1			
2.	Rep. Tom Sykora, vice-chair	2			
3.	Rep. Bob Goetsch	✓			
4.	Rep. Mike Huebsch	3			
5.	Rep. Frank Lasee	✓			
6.	Rep. John Ainsworth	4			
7.	Rep. Suzanne Jeskewitz				
8.	Rep. Carol Owens	5			
9.	Rep. Joan Spillner	6			
10.	Rep. Wayne Wood	7			
11.	Rep. John La Fave	8			
12.	Rep. Lee Meyerhofer				
13.	Rep. Johnnie Morris-Tatum	9			
14.	Rep. Jeffrey Plale	✓			
15.	Rep. Bob Turner	10			
16.	Rep. Bob Ziegelbauer	11			
	Totals				

MOTION CARRIED

MOTION FAILED

s:\comclerk\rollcall.1



State Representative
Lee **Meyerhofer**

January 26, 2000

Representative Michael Lehman, Chair
Assembly Committee on Ways and Means
103 West, State Capitol

Dear Chairman Lehman:

I was unable to attend the January 12, 2000 meeting of the Ways and Means Committee. Please enter the following votes into the record.

AB 634

Yes on adoption of LRB 1140/1

Yes on adoption of LRB 1146/1

Yes on passage of AB 634 as amended

AB 41

Yes on passage of AB 41

AB 393

Yes on adoption of Substitute Amendment 1

Yes on passage of AB 393 as amended

AB 572

Yes on adoption of LRB 1126/1

Yes on passage of AB 572 as amended

AB 614

Yes on adoption of LRB 1127/1

Yes on passage of AB 619 as amended

Thank you for your attention to this request. Please feel free to contact me if I you have any questions.

Sincerely,

LEE P. MEYERHOFER
State Representative
5th Assembly District



MasterCard International

United States Region
2000 Purchase Street
Purchase, NY 10577-2509

914 249-2000
Internet Home Page:
<http://www.mastercard.com>

*MasterCard
International*



January 6, 2000

Representative Michael Lehman
1317 Honeysuckle Road
Hartford, WI 53027

Dear Representative Lehman:

I am the Senior Director of Public Sector Acceptance at MasterCard International and recently came across Wisconsin A.B. 643 which would expand acceptable forms of payment for taxes, costs, penalties and interest from taxpayers. I would like to first offer my support as you pursue card acceptance opportunities for your state, and answer any questions you may have regarding our associations rules so that we can be sure this legislation works not only for the state of New York, but for our organization as well.

We appreciate your embracing new and innovative payment methodologies that will better serve your constituents. Credit cards offer many benefits such as guaranteed payment of funds, decreased operating costs, and fees associated with cash and checks. More importantly, it offers consumers flexibility, which results in increased customer satisfaction.

However, your bill as introduced includes surcharging language which may be in conflict with our rules and as such our members are not permitted to conduct business as you've requested. MasterCard's rules specifically prohibit merchants from adding a surcharge to MasterCard transactions. Those rules are important to help maintain the utility of the product and to ensure that MasterCard cards as a payment method, are not unfairly discriminated against at the point of sale.

MasterCard rules do permit service fees on MasterCard transactions in any merchant category under special circumstances. When analyzing a potential service fee program, MasterCard looks to ensure that its products are not discriminated against versus other payment methods (cash, checks, ACH) within the payment mode (in-person, kiosk, recurring payment, Internet, telephone).

If you would like to discuss this further or if you have any additional questions, please feel free to contact me at (914) 249-5940.

Sincerely,

A handwritten signature in black ink that reads "Jim Reed".

Jim Reed
Senior Director, Public Sector Acceptance
MasterCard International Incorporated

Date: January 7, 2000
To: Rep Lehman, Rep Wood, Sen Wirch and Sen Drzewiecki
From: Cate Zeuske, Secretary *Cate Zeuske*
Subject: AB 634 – DOR's taxpayer friendly bill

Thank you for agreeing to sponsor AB 634 (and the Senate companion LRB 4067/1), DOR's "taxpayer friendly" bill. I believe this bill will provide a number of needed changes that will directly benefit Wisconsin's average taxpaying citizen. I would like to take this opportunity to provide you with a quick summary of the components of the bill.

Reducing Nondelinquent Taxes

This provision would give DOR the authority to reduce the amount of nondelinquent taxes due to the state (we currently have that authority for delinquent taxes). The department occasionally finds in audits and appeals that a taxpayer is unable to pay in full the amounts due. It is more efficient to make an early determination of inability to pay in these situations. The Department would follow the same procedures for determining inability to pay regardless of whether an amount due is delinquent or not.

Innocent Spouse Provisions

Married persons filing a joint income tax return are both liable for payment of taxes related to the return. However, the Department may provide relief to a spouse in certain situations specified by the Internal Revenue Code. The changes proposed by this bill conform the Wisconsin innocent spouse provisions to the innocent spouse provisions that currently apply for federal income tax purposes.

Seller Required to Refund Sales or Use Tax to Buyer

The bill requires that a seller who charges a buyer sales tax that (1) is refunded to the seller by the Department of Revenue through audit, or (2) is never remitted to the department because the sale was never taxable, must return the tax to the buyer. Without such a requirement, the seller profits while the buyer has no recourse under the sales and use tax law to get the sales tax it paid in error back from the seller or the department. If the seller cannot return the tax to the buyer, the seller must return the tax to the department preventing any unjust enrichment to the seller.

Example: Company A sold equipment to Company B for \$10,000 and collected \$500 sales tax from the customer, which it remitted to the Department of Revenue. Company A is audited and the department determines that the \$500 sales tax was not due. The department refunds the tax, plus interest, to Company A. Currently, Company A can keep the \$500 plus interest, even though it was Company B who actually paid the tax. Company A is unjustly enriched.

Example: Company C charges sales tax of \$500 on services it furnishes to an individual. After receiving payment from the individual, Company C realizes that such services are not taxable and does not remit the \$500 of tax collected to either the individual or the department. There is

no recourse under the sales and use tax law for the individual or the department to collect the tax from Company C. Company C is unjustly enriched.

Note: Currently, a seller is only required to return to buyers sales tax collected in error if such tax was refunded by the department to the seller as a result of a claim for refund filed by the seller.

30 Day Extension for Filing a Withholding Report

An employer is required to deduct and withhold state income taxes from an employee's pay and deposit those taxes with the department on a quarterly basis. A withholding tax report must also be filed on a monthly, quarterly or annual basis. Prior to 1999, the Department could grant an employer a 30 day extension to file the withholding report. This bill restores an inadvertently eliminated provision in 1997 Wis. Act 291 to again permit a 30 day extension of time for employers to file the annual withholding reconciliation report.

Option to Use Either a Bracket System or a Straight Mathematical Computation

Computers play an increasing role in business operations. However, the Wisconsin Statutes still require the use of the bracket system (e.g. 0-9 cents = no tax, 10-27 cents = 1 penny tax, etc.) in computing Wisconsin sales or use tax due on a transaction.

Although some retailers have computer systems capable of using the bracket system, many retailers' computer systems or cash registers are not capable of using the bracket system to determine the amount of sales or use tax due on a transaction. Retailers who have computer systems that generate their sales invoices, but whose systems do not have the capability of using the bracket system, are currently having their computer systems compute the amount of sales tax due on a transaction using a straight mathematical computation (sales price times the tax rate) rather than the bracket system.

This bill will provide statutory authority allowing taxpayers to compute the sales tax due on a transaction through the use of either 1) a straight mathematical computation using procedures described in department rules or 2) the use of the bracket system.

Define "Exclusively" for Sales and Use Tax Exemptions

Various sections of Wisconsin sales and use tax law provide exemptions for items used "exclusively" in a particular manner. The courts have determined that an item does not have to be used "solely" or "only" in an exempt manner, but may be also be used for other purposes and still qualify for the exemption.

This bill would define "exclusively" as a specific quantifiable amount that would be applied uniformly by the department and courts to all taxpayers. Specifically, "exclusively" would mean that an item is used in an exempt manner at least 95% of the time.

Rounding Dollars

In coordination with our integrated tax system, the Department would like to simplify forms and computer system requirements by eliminating cents and requiring rounding. We plan to implement this change one tax type at a time within the integrated tax system.

Paying Taxes with a Credit Card

In today's electronic environment, DOR wants to be in a position to accept credit card payments of taxes. Many other states already allow for credit card payments of taxes.

Add Definitions of "Pay" and "Sign"

When the definition for "Pay" and "Sign" were added to the various excise tax statutes in 1997 Wisconsin Act 27, "Pay" and "Sign" were not added to sec. 78.39 (Alternate Fuel) and "Sign" was not added to sec. 139.75 (Tobacco Products Tax). This proposal adds statutory definition language which was not previously included.

Thank you again for your sponsorship of this bill. Please contact me if you have any questions.

Nowlan, Andrew

From: Kreye, Joseph
Sent: Monday, January 10, 2000 3:21 PM
To: Gates-Hendrix, Sherrie
Cc: Nowlan, Andrew; Ford, William
Subject: RE: amendments to AB 634

Sherrie:

I'll go ahead and make the changes except I won't renumber 71.80 (19) (c) to be the repealed par. (b): this would create considerable confusion if there are any cross-references to par. (b) in materials or case law. Consistent with LRB policy and standards, we don't re-use repealed numbers unless we recreate the repealed material in substantially the same form.
Joe.

Joseph T. Kreye, Legislative Attorney
Legislative Reference Bureau
(608) 266-2263
joseph.kreye@legis.state.wi.us

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Monday, January 10, 2000 2:56 PM
To: Kreye, Joseph
Cc: Nowlan, Andrew; Ford, William
Subject: amendments to AB 634

Joe-

DOR and Rep. Lehman (Andrew) would like the following amendments to AB 634:

- 1. Innocent spouse provisions** - under Sections 3, 4, and 6 the changes that read "except as provided..." in these sections are not needed. So, the changes in p. 4, lines 14, 15 and 20 and p. 5, line 14 can be eliminated.
- 2. Rounding dollars provision** - under Section 12, we would like to retain s. 71.80 (19) (c) and renumber it (b) and change the beginning of this paragraph to read:

(b) Inapplicability to computation of amount. Except at the request of the department, paragraph (a) does not apply ...
- 3. Delinquent taxes payment timeframe** - we would also like to amend the bill to incorporate the provisions of AB 402 that would allow a payment schedule permitting payment of compromised delinquent taxes within a one-year period.

Let me know if you have questions. Thanks.

Nowlan, Andrew

From: Gates-Hendrix, Sherrie
Sent: Tuesday, January 11, 2000 10:44 AM
To: Nowlan, Andrew
Subject: AB 634 - Exclusively

Andrew – Here's Vicki's writeup on our definition of "used exclusively." Let me know if you have any other questions.

Just as a little history. The original proposal was drafted in May of 1996 and asked that a central definition of "used exclusively" be drafted to affect all but two sections and that the definition in sec. 77.54(3)(b)3, Wis. Stats., relating to farming be used except that language should be added to show how to calculate the other use and total use. The first draft in 1997 and all subsequent drafts by Jack Stark, rather than using the farming language we suggested, deleted the word exclusive individually in all sections where it was found (except two), and replaced it with "used 95% of their use." When Joe Krey took over drafting in the 1999 session he created a central definition of "used exclusively" for all affected sections in sec. 77.54 and continued to use the 95% language. We asked that rather than reference to sec. 77.54, the drafter use "in a nontaxable manner" for the following reason.

Section 77.54 only addresses exemptions and does not address the resale provision in the statute which is not an exemption, but rather a nontaxable transaction because resale is excluded from the definition of sale. The current farming language, if adopted in all places where exclusively is used, will result in additional tax where equipment is used for multiple nontaxable and exempt purposes, none of which individually are over 95%, but which together are used in a nontaxable manner (exempt and resale) more than 95%.

Example: Company A is a farm co-op. Company A purchases a fertilizer spreader. Company A uses the spreader 50% of the time in performing custom farming services for farmers, which is an exempt farming use. The remaining 50% of the time it is leased to farmers who will do their own spreading (resale). A strict reading of sec. 77.54(3)(a) and (b)3, Wis. Stats., would provide that the sale of the fertilizer spreader to the co-op is not exempt under sec. 77.54(3)(a), Wis. Stats. That is because it is used for a purpose other than farming (i.e., resale) more than 5% of the time of total use.

The same would be true if the farming definition was extended to manufacturing, common carriage, and waste reduction exemption where the property is used for both the exemption claimed and resale. Another problem with going back to the farming definition is that the definition does not provide how use, other use, and total use are determined (e.g., miles, hours used, etc). Our proposal does that.

Let me know if this is sufficient or whether you need additional examples or information.

Vicki



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718 • <http://www.dor.state.wi>

Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

Date: January 12, 2000
To: Members of Assembly Ways & Means Committee
From: Tom Ourada
Subject: AB 634 – DOR's Taxpayer Friendly Bill Summary

Thank you for your consideration of Assembly Bill 634, legislation which provides a number of tax law modifications to assist taxpayers. I am providing a brief summary of the provisions of the bill.

Reducing Nondelinquent Taxes

Under current law, any taxpayer may petition the department of revenue to compromise or reduce the taxpayer's delinquent taxes including the costs, penalties and interest in cases where the taxpayer has an inability to pay. The department requires the taxpayer to provide financial statements and any other information that is related to the petition. If the department finds that the taxpayer is unable to pay the taxes, costs, penalties and interest in full, the department enters an order reducing the delinquent amounts in accordance with the determination. If within 3 years of the date of the order reducing the delinquent amount, the taxpayer has an income or property sufficient to enable the taxpayer to pay the remainder of the tax including costs, penalties and interest, the department reopens the matter and orders full payment of the original delinquent amount.

The department occasionally finds in audits and appeals that a taxpayer is unable to pay in full the amounts assessed and/or due. An example would be a review of Homestead credit filings which results in a determination that a taxpayer incorrectly claimed Homestead with the Department making an assessment for a three or four year period. The taxpayer is likely a low-income individual and unable to pay back the improperly claimed credits. At the point in time of the audit and/or appeal, the assessed taxes including penalties and interest is not yet delinquent. It is more efficient to make an early determination of inability to pay in these situations.

This provision would give the department the authority to reduce the amount of nondelinquent taxes due to the state. The department would follow the same procedures for determining inability to pay regardless of whether an amount due is delinquent or not. The Compliance Bureau will be establishing procedures that are consistent regarding the ability to pay.

Innocent Spouse Provisions

Married persons filing a joint income tax return are both liable for payment of taxes related to the return. However, the Department may provide relief to a spouse in certain situations specified by the Internal Revenue Code.

The federal provisions were changed to protect married taxpayers from the tax misdeeds of their spouses. The requirements for obtaining innocent spouse relief were made less stringent, and relief is available on an apportioned basis. In the case of divorced taxpayers and married taxpayers who are legally separated or who have been living apart for at least one year, such individuals may elect separate tax liability despite having filed a joint return.

Example of Federal Provision: In 1998, a husband earns \$30,000 from freelance work. He does not tell his wife about the \$30,000. The income is not reported on the couple's joint return. The couple gets a divorce in 1999. If the IRS assesses a deficiency for the unreported income, the wife may elect separate liability and owe none of the deficiency, regardless of the IRS' ability to collect the deficiency from the husband. The husband will be liable for the entire deficiency.

The changes proposed by this bill conform the Wisconsin innocent spouse provisions to the innocent spouse provisions that currently apply for federal income tax purposes.

Seller Required to Refund Sales or Use Tax to Buyer

The bill requires that a seller who charges a buyer sales tax that (1) is refunded to the seller by the Department of Revenue through audit, or (2) is never remitted to the department because the sale was never taxable, must return the tax to the buyer. Without such a requirement, the seller profits while the buyer has no recourse under the sales and use tax law to get the sales tax it paid in error back from the seller or the department. If the seller cannot return the tax to the buyer, the seller must return the tax to the state preventing any unjust enrichment to the seller.

Example: Company A sold equipment to Company B for \$10,000 and collected \$500 sales tax from the customer, which it remitted to the Department of Revenue. Company A is audited and the department determines that the \$500 sales tax was not due. The department refunds the tax, plus interest, to Company A. Currently, Company A can keep the \$500 plus interest, even though it was Company B who actually paid the tax. Company A is unjustly enriched.

Example: Company C charges sales tax of \$500 on services it furnishes to an individual. After receiving payment from the individual, Company C realizes that such services are not taxable and does not remit the \$500 of tax collected to either the individual or the department. There is no recourse under the sales and use tax law for the individual or the department to collect the tax from Company C. Company C is unjustly enriched.

Note: Currently, a seller is only required to return to buyers sales tax collected in error if such tax was refunded by the department to the seller as a result of a claim for refund filed by the seller.

Penalty provisions will apply in the case of refunds that are not returned to the buyer and not sent back to the state in a timely manner. The penalty is 25% of the amount improperly collected or 100% in fraud cases.

30 Day Extension for Filing a Withholding Report

An employer is required to deduct and withhold state income taxes from an employee's pay and deposit those taxes with the department on a regular basis (monthly, twice-monthly, quarterly or annually). A withholding tax report must also be filed on a similar schedule. By Jan. 31st, employers must submit a report that reconciles all withholding and wages for employees. Prior to 1999, the Department could grant an employer a 30 day extension to file the withholding report. This bill restores an inadvertently eliminated provision in 1997 Wis. Act 291 to again permit a 30 day extension of time for employers to file the annual withholding reconciliation report.

Option to Use Either a Bracket System or a Straight Mathematical Computation

Computers play an increasing role in business operations. However, the Wisconsin Statutes still require the use of the bracket system (e.g. 0-9 cents = no tax, 10-27 cents = 1 penny tax, etc.) in computing Wisconsin sales or use tax due on a transaction.

Although some retailers have computer systems capable of using the bracket system, many retailers' computer systems or cash registers are not capable of using the bracket system to determine the amount of sales or use tax due on a transaction. Retailers who have computer systems that generate their sales invoices, but whose systems do not have the capability of using the bracket system, are currently having their computer systems compute the amount of sales tax due on a transaction using a straight mathematical computation (sales price times the tax rate) rather than the bracket system.

This bill will provide statutory authority allowing taxpayers to compute the sales tax due on a transaction through the use of either 1) a straight mathematical computation using procedures described in department rules or 2) the use of the bracket system.

Example: Retailer A sells Customer B three different items in one transaction: Item 1's selling price is \$14.70, item 2's selling price is \$8.30, and item 3's selling price is \$7.10. The aggregate selling price of the taxable items is \$30.10.

The Wisconsin sales tax due on this transaction using a straight mathematical computation, assuming a 5% tax rate, is \$1.51 ($\$30.10 \times 5\% = \1.505 , and that amount is rounded up to \$1.51).

The Wisconsin sales tax due on this transaction using the bracket system is also \$1.51.

Define "Exclusively" for Sales and Use Tax Exemptions

Various sections of Wisconsin sales and use tax law provide exemptions for items used "exclusively" in a particular manner. The courts have determined that an item does not have to be used "solely" or "only" in an exempt manner, but may be also be used for other purposes and still qualify for the exemption. Attempts to allow an "infrequent and sporadic use" of an exempt item in a taxable manner and still not invalidate the exemption have been met with uncertainty and inconsistency.

This bill would define "used exclusively" in a specific quantifiable amount (used in nontaxable manner for at least 95% of total use) which would be applied uniformly by the department and courts to all taxpayers. The types of exemptions that are covered include: equipment, tractors and machinery used for farming, common and contract carriers, waste reduction and recycling equipment and motor vehicles, and manufacturing equipment and machinery.

Example: A baler is used by Grocery Store A to compact and bale its solid waste, such as boxes, cans, and paper. The use of the baler is as follows:

95% of Grocery Store A's use of the baler is to compact and bale waste that will be sold to a recycling company (use in nontaxable manner).

5% of Grocery Store A's use of the baler is to compact and bale solid waste that will be sent to a landfill (use in taxable manner).

Under the bill, Grocery Store A uses the baler "exclusively" in a nontaxable manner, because it uses the baler in a nontaxable manner for at least 95% of total use. (Under current law, Grocery Store A would have to determine whether its taxable use of the baler is "infrequent and sporadic" to determine if the baler qualifies for exemption.)

Rounding Dollars

As the department implements the integrated tax system, the department would like to simplify forms and computer system requirements by eliminating cents and require rounding. Since the department will implement one tax type at a time within the integrated tax system, the department requires flexibility as to when the rounding requirement applies for each tax type.

Computer system requirements also dictate where rounding must occur in tax computations. In most cases, rounding only applies to the final amount to be shown on a return. For example, a taxpayer should retain the cents in computations on Federal Schedules A&B and C, and Form 1040, and only do the rounding as required when carrying figures forward to the Wisconsin Form 1.

In other cases, rounding is required since supporting figures need to be recomputed and retained. For example, the TeleFile system requires taxpayers to enter their individual W-2 wage and withholding as whole dollar amounts. The system uses these figures to compute the proper income and allowable credits. The department therefore requires flexibility in determining how rounding should be applied.

Add Definitions of "Pay" and "Sign"

The Department of Revenue is authorized to prescribe alternative methods of paying taxes, filing tax reports, and authenticating documents. The department is currently using electronic filing and payment requirements which results in statutory language being needed to authorize the use of the new electronic methods. In the original language adding these definitions to the various Department of Revenue statutes (1997 Wisconsin Act 27), the definitions for "Pay" and "Sign" were inadvertently not included in s. 78.39 Alternate Fuels, and "Sign" was not included in s. 139.75 Tobacco Products.

This proposal adds statutory definition language which was not previously included for these types of taxes.

Paying Taxes with a Credit Card

In today's electronic environment, DOR wants to be in a position to accept credit card payments of taxes. This is an added convenience for many taxpayers. The Internal Revenue Service and several other states already allow for credit card payments of taxes.



**STATE BAR
of WISCONSIN**

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MEMORANDUM

To: Members of the Joint Committee on Taxation Exemptions
From: Taxation Law Section
Date: March 16, 2000
Re: Assembly Bill 634

The Taxation Law Section is providing this memo to inform members of the Joint Committee on Tax Exemptions of an agreed upon amendment to Senate Bill 346, the companion of AB 634.

The Taxation Law Section supports the efforts of Senator Wirsch, Representative Lehman and the Dept. of Revenue in their efforts to create "taxpayer friendly" legislation under Senate Bill 346 and its companion, Assembly Bill 634. The Section appreciates the opportunity to work with legislators and the Dept. Of Revenue on an amendment that addresses several concerns with the original draft of the bill. Agreed upon changes include:

- Sales and Use Tax Provisions– Delete language which would make sales and use tax refunds retroactive to September 1, 1994. The Taxation Law Section was concerned that applying these changes retroactively to situations that were not covered under the original 1994 legislation is unfair. It is inappropriate to hold individuals accountable today for something that was not law at that time. The Taxation Law Section has no objection to applying the changes prospectively.
- Sales and Use Tax Provisions – Extending the time period for compliance with the sales and use tax refunds from 60 to 90 days. SB 236/AB 634 establish a 60 day time period for compliance with this provision. The Taxation Law Section felt 90 days is a more reasonable time period.
- "Exclusively Used" Methodology – Removal of requirement to obtain "prior written approval" to use an alternative method for determining exclusive use. The requirement would have been burdensome and the Taxation Law Section felt more appropriate language would be to allow for other reasonable methods of determining exclusive use but without the requirement for prior written approval.

For more information contact Jenny Boese at the State Bar of Wisconsin at 608-250-6045 or email at jboese@wisbar.org



Changes indicated in bold.

Substitute Section 13 to read:

71.80(21) **Financial transaction card payments.** (a) In this subsection, “taxes” has the meaning given in s. 71.91 (6) (a) 4.

(b) **“Financial transaction card” means an instrument or device issued by an issuer for the use of the cardholder in any of the following:**

1. **Obtaining anything on credit.**
2. **Certifying or guaranteeing the availability of funds sufficient to honor a draft or check.**
3. **Gaining access to an account.**

(c) The department may accept payment by **financial transaction card** of taxes that are required to be paid to the department under this chapter.

(d) If the department permits the payment of taxes by **financial transaction card** under par. (c), the department shall impose a **financial transaction card** service charge on that payment. The **financial transaction card** service charge shall be in addition to the taxes that are being paid by **financial transaction card** and shall be an amount that is no greater than necessary to pay the costs to the department for providing payment by **financial transaction card**, including the cost of any services for which the department contracts under par. (e).

(e) The department may contract for services relating to **financial transaction card** payments under this section.