

1 ***-0728/6.138*** SECTION 2283. 77.52 (2) (a) 5. a. of the statutes is renumbered
2 77.52 (2) (a) 5. (intro.) and amended to read:

3 77.52 (2) (a) 5. (intro) The sale of all of the following:
4 am. Intrastate, interstate, and international telecommunications services,
5 except services subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either
6 originate or terminate in this state; ~~except services that are obtained by means of a~~
7 ~~toll-free number, that originate outside this state and that terminate in this state;~~
8 and are charged to a service address in this state, regardless of the location where
9 that charge is billed or paid; and the sale of the rights to purchase
10 telecommunications services, including purchasing reauthorization numbers, by
11 paying in advance and by using an access number and authorization code, except
12 sales that are subject to subd. 5. b interstate 800 services.

13 ***-0728/6.139*** SECTION 2284. 77.52 (2) (a) 5. b. of the statutes is repealed.

14 ***-0728/6.140*** SECTION 2285. 77.52 (2) (a) 5. bm. of the statutes is created to
15 read:

16 77.52 (2) (a) 5. bm. Telecommunications Internet access services.

17 ***-0728/6.141*** SECTION 2286. 77.52 (2) (a) 5. c. of the statutes is created to read:

18 77.52 (2) (a) 5. c. Ancillary services, except detailed telecommunications billing
19 services.

20 ***-0728/6.142*** SECTION 2287. 77.52 (2) (a) 5m. of the statutes is amended to
21 read:

22 77.52 (2) (a) 5m. The sale of services that consist of recording
23 telecommunications messages and transmitting them to the purchaser of the service
24 or at that purchaser's direction, but not including those services if they are merely
25 an that are taxable under subd. 5. or services that are incidental, as defined in s.

1 77.51 (5), ~~element of to another service that is not taxable under this subchapter and~~
2 ~~sold to that the purchaser of the incidental service and is not taxable under this~~
3 ~~subchapter.~~

4 ***-0728/6.143*** SECTION 2288. 77.52 (2) (a) 10. of the statutes is amended to
5 read:

6 77.52 (2) (a) 10. Except for services provided by veterinarians and except for
7 installing or applying tangible personal property that, subject to par. (ag), when
8 installed or applied, will constitute an addition or capital improvement of real
9 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
10 inspection, and maintenance of all items of tangible personal property, specified
11 digital goods, and additional digital goods, unless, at the time of that the repair,
12 service, alteration, fitting, cleaning, painting, coating, towing, inspection, or
13 maintenance, a sale in this state of the type of property repaired, serviced, altered,
14 fitted, cleaned, painted, coated, towed, inspected, or maintained would have been
15 exempt to the customer from sales taxation under this subchapter, other than the
16 exempt sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a)
17 and other than nontaxable sales under s. ~~77.51 (14r) juvenile 77.522~~ or unless the
18 repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or
19 maintenance is provided under a contract that is subject to tax under subd. 13m. The
20 tax imposed under this subsection applies to the repair, service, alteration, fitting,
21 cleaning, painting, coating, towing, inspection, or maintenance of items listed in par.
22 (ag), regardless of whether the installation or application of tangible personal
23 property, specified digital goods, or additional digital goods related to the items is an
24 addition to or a capital improvement of real property, except that the tax imposed
25 under this subsection does not apply to the original installation or the complete

1 replacement of an item listed in par. (ag), if that the installation or replacement is
2 a real property construction activity under s. 77.51 (2).

3 ***-1823/2.2* SECTION 2289.** 77.52 (2) (a) 11. of the statutes is amended to read:

4 77.52 (2) (a) 11. The producing, fabricating, processing, printing or imprinting
5 of tangible personal property for a consideration for consumers who furnish directly
6 or indirectly the materials used in the producing, fabricating, processing, printing
7 or imprinting. This subdivision does not apply to the printing or imprinting of
8 tangible personal property ~~which will be subsequently transported outside the state~~
9 ~~for use outside the state by the consumer for advertising purposes that results in~~
10 printed material, catalogs, or envelopes that are exempt under s. 77.54 (25) and
11 (25m).

12 ***-0728/6.144* SECTION 2290.** 77.52 (2) (a) 13m. of the statutes is created to
13 read:

14 77.52 (2) (a) 13m. The sale of contracts, including service contracts,
15 maintenance agreements, and warranties, that provide, in whole or in part, for the
16 future performance of or payment for the repair, service, alteration, fitting, cleaning,
17 painting, coating, towing, inspection, or maintenance of tangible personal property,
18 unless the sale, lease, or rental in this state of the property to which the contract
19 relates is or was exempt, to the purchaser of the contract, from taxation under this
20 subchapter.

21 ***-0728/6.145* SECTION 2291.** 77.52 (2m) (a) of the statutes is amended to read:

22 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
23 of the charge for the service may be deemed a sale or rental of tangible personal
24 property, specified digital goods, or additional digital goods, if the property or digital

SECTION 2291

1 goods transferred by the service provider is are incidental to the selling, performing
2 or furnishing of the service, except as provided in par. (b).

3 ***-0728/6.146* SECTION 2292.** 77.52 (2m) (b) of the statutes is amended to read:

4 77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,
5 10., 11. and 20., all property, specified digital goods, or digital additional goods,
6 physically transferred, or transferred electronically, to the customer in conjunction
7 with the selling, performing or furnishing of the service is a sale of tangible personal
8 property, specified digital goods, or additional digital goods separate from the selling,
9 performing or furnishing of the service.

10 ***-0728/6.147* SECTION 2293.** 77.52 (3m) of the statutes is repealed.

11 ***-0728/6.148* SECTION 2294.** 77.52 (3n) of the statutes is repealed.

12 ***-0728/6.149* SECTION 2295.** 77.52 (4) of the statutes is amended to read:

13 77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the
14 public or to any customer, directly or indirectly, that the tax or any part thereof will
15 be assumed or absorbed by the retailer or that it will not be added to the selling price
16 of the property, specified digital goods, or additional digital goods sold or that if added
17 it, or any part thereof, will be refunded. Any person who violates this subsection is
18 guilty of a misdemeanor.

19 ***-0728/6.150* SECTION 2296.** 77.52 (6) of the statutes is repealed.

20 ***-0728/6.151* SECTION 2297.** 77.52 (7) of the statutes is amended to read:

21 77.52 (7) Every person desiring to operate as a seller within this state who
22 holds a valid certificate under s. 73.03 (50) shall file with the department an
23 application for a permit for each place of operations. Every application for a permit
24 shall be made upon a form prescribed by the department and shall set forth the name
25 under which the applicant intends to operate, the location of the applicant's place of

1 operations, and the other information that the department requires. The Except as
2 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
3 in the case of sellers other than sole proprietors, the application shall be signed by
4 the person authorized to act on behalf of such sellers. A nonprofit organization that
5 has gross receipts a sales price taxable under s. 77.54 (7m) shall obtain a seller's
6 permit and pay taxes under this subchapter on all taxable gross receipts sales prices
7 received after it is required to obtain that permit. If that organization becomes
8 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
9 seller's permit, it may surrender that permit.

10 ***-0728/6.152* SECTION 2298.** 77.52 (7b) of the statutes is created to read:

11 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
12 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
13 manner prescribed by the department.

14 ***-0728/6.153* SECTION 2299.** 77.52 (12) of the statutes is amended to read:

15 77.52 (12) A person who operates as a seller in this state without a permit or
16 after a permit has been suspended or revoked or has expired, unless the person has
17 a temporary permit under sub. (11), and each officer of any corporation, partnership
18 member, limited liability company member, or other person authorized to act on
19 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held
20 only by persons actively operating as sellers of tangible personal property, specified
21 digital goods, additional digital goods, or taxable services. Any person not so
22 operating shall forthwith surrender that person's permit to the department for
23 cancellation. The department may revoke the permit of a person found not to be
24 actively operating as a seller of tangible personal property, specified digital goods,
25 additional digital goods, or taxable services.

1 *-0728/6.154* SECTION 2300. 77.52 (13) of the statutes is amended to read:

2 77.52 (13) For the purpose of the proper administration of this section and to
3 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
4 the tax until the contrary is established. The burden of proving that a sale of tangible
5 personal property, specified digital goods, additional digital goods, or services is not
6 a taxable sale at retail is upon the person who makes the sale unless that person
7 takes from the purchaser ~~a~~ an electronic or a paper certificate, in a manner
8 prescribed by the department, to the effect that the property, digital good or service
9 is purchased for resale or is otherwise exempt, except that no certificate is required
10 for sales of cattle, sheep, goats, and pigs that are sold at an animal market, as defined
11 in s. 95.68 (1) (ag), and no certificate is required for sales of commodities, as defined
12 in 7 USC 2, that are consigned for sale in a warehouse in or from which the
13 commodity is deliverable on a contract for future delivery subject to the rules of a
14 commodity market regulated by the U.S. commodity futures trading commission if
15 upon the sale the commodity is not removed from the warehouse the sale of tangible
16 personal property, specified digital goods, additional digital goods, and services that
17 are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b),
18 (30), (31), (32), (35), (36), (37), (42), (44), (45), and (46), except as provided in s. 77.54
19 (30) (e) and (f).

20 *-0728/6.155* SECTION 2301. 77.52 (14) (a) (intro.) and 1. and (b) of the
21 statutes are consolidated, renumbered 77.52 (14) (a) and amended to read:

22 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the
23 burden of proof only if any of the following is true: 1. The certificate is taken in good
24 faith the seller obtains a fully completed exemption certificate, or the information
25 required to prove the exemption, from a person who is engaged as a seller of tangible

1 ~~personal property or taxable services and who holds the permit provided for in sub.~~
2 ~~(9) and who, at the time of purchasing purchaser no later than 90 days after the date~~
3 ~~of the sale of the tangible personal property, specified digital goods, additional digital~~
4 ~~goods, or services, intends to sell it in the regular course of operations or is unable~~
5 ~~to ascertain at the time of purchase whether the property or service will be sold or~~
6 ~~will be used for some other purpose. (b) except as provided in par. (am). The~~
7 ~~certificate under sub. (13) shall not relieve the seller of the burden of proof if the seller~~
8 ~~fraudulently fails to collect sales tax, solicits the purchaser to claim an unlawful~~
9 ~~exemption, accepts an exemption certificate from a purchaser who claims to be an~~
10 ~~entity that is not subject to the taxes imposed under this subchapter, if the subject~~
11 ~~of the transaction sought to be covered by the exemption certificate is received by the~~
12 ~~purchaser at a location operated by the seller in this state and the exemption~~
13 ~~certificate clearly and affirmatively indicates that the claimed exemption is not~~
14 ~~available in this state. The certificate referred to in sub. (13) shall be signed by and~~
15 ~~bear the name and address of provide information that identifies the purchaser, and~~
16 ~~shall indicate the general character of the tangible personal property or service sold~~
17 ~~by the purchaser and the basis for the claimed exemption and a paper certificate~~
18 ~~shall be signed by the purchaser. The certificate shall be in such form as the~~
19 ~~department prescribes by rule.~~

20 *~~0728/6.156~~* SECTION 2302. 77.52 (14) (a) 2. of the statutes is repealed.

21 *~~0728/6.157~~* SECTION 2303. 77.52 (14) (am) of the statutes is created to read:

22 77.52 (14) (am) If the seller has not obtained a fully completed exemption
23 certificate or the information required to prove the exemption, as provided in par. (a),
24 the seller may, no later than 120 days after the department requests that the seller
25 substantiate the exemption, either provide proof of the exemption to the department

1 by other means or obtain, in good faith, a fully completed exemption certificate from
2 the purchaser.

3 ~~*-0728/6.158*~~ SECTION 2304. 77.52 (15) of the statutes is amended to read:

4 77.52 (15) If a purchaser who gives a resale certificate purchases tangible
5 personal property, specified digital goods, additional digital goods, or taxable
6 services without paying a sales tax or use tax on such purchase because such
7 property, goods, or services were for resale makes any use of the property, goods, or
8 services other than retention, demonstration or display while holding it the property,
9 goods, or services for sale, lease or rental in the regular course of the purchaser's
10 operations, the use shall be taxable to the purchaser under s. 77.53 as of the time that
11 the property is, goods, or services are first used by the purchaser, and the sales
12 purchase price of the property, goods, or services to the purchaser shall be the
13 measure of the tax. Only when there is an unsatisfied use tax liability on this basis
14 because the seller has provided incorrect information about that transaction to the
15 department shall the seller be liable for sales tax with respect to the sale of the
16 property to the purchaser.

17 ~~*-0728/6.159*~~ SECTION 2305. 77.52 (16) of the statutes is amended to read:

18 77.52 (16) Any person who gives a resale certificate for property, specified
19 digital goods, additional digital goods, or services which that person knows at the
20 time of purchase is not to be resold by that person in the regular course of that
21 person's operations as a seller for the purpose of evading payment to the seller of the
22 amount of the tax applicable to the transaction is guilty of a misdemeanor. Any
23 person certifying to the seller that the sale of property, specified digital goods,
24 additional digital goods, or taxable service is exempt, knowing at the time of

1 purchase that it is not exempt, for the purpose of evading payment to the seller of the
2 amount of the tax applicable to the transaction, is guilty of a misdemeanor.

3 ***-0728/6.160* SECTION 2306.** 77.52 (19) of the statutes is amended to read:

4 77.52 (19) The department shall by rule provide for the efficient collection of
5 the taxes imposed by this subchapter on sales of property, specified digital goods,
6 additional digital goods, or services by persons not regularly engaged in selling at
7 retail in this state or not having a permanent place of business, but who are
8 temporarily engaged in selling from trucks, portable roadside stands, concessions at
9 fairs and carnivals, and the like. The department may authorize such persons to sell
10 property, specified digital goods, or additional digital goods or sell, perform, or
11 furnish services on a permit or nonpermit basis as the department by rule prescribes
12 and failure of any person to comply with such rules constitutes a misdemeanor.

13 ***-0728/6.161* SECTION 2307.** 77.52 (20) of the statutes is created to read:

14 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled
15 transaction is subject to the tax imposed under this subchapter.

16 (b) At the retailer's option, if the retailer can identify, by reasonable and
17 verifiable standards from the retailer's books and records that are kept in the
18 ordinary course of its business for other purposes, including purposes unrelated to
19 taxes, the portion of the price that is attributable to products that are not subject to
20 the tax imposed under this subchapter, that portion of the sales price is not taxable
21 under this subchapter. This paragraph does not apply to a bundled transaction that
22 contains food and food ingredients, drugs, durable medical equipment, mobility
23 enhancing equipment, prosthetic devices, or medical supplies.

24 ***-0728/6.162* SECTION 2308.** 77.52 (21) of the statutes is created to read:

1 77.52 (21) A person who provides a product that is not a distinct and
2 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)
3 (b), is the consumer of that product and shall pay the tax imposed under this
4 subchapter on the purchase price of that product.

5 *-0728/6.163* **SECTION 2309.** 77.52 (22) of the statutes is created to read:

6 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service
7 provider is the consumer of the tangible personal property, specified digital goods,
8 or additional digital goods and shall pay the tax imposed under this subchapter on
9 the purchase price of the property or goods.

10 *-0728/6.164* **SECTION 2310.** 77.52 (23) of the statutes is created to read:

11 77.52 (23) With regard to transactions described in s. 77.51 (1f) (c), the service
12 provider is the consumer of the service that is essential to the use or receipt of the
13 other service and shall pay the tax imposed under this subchapter on the purchase
14 price of the property or goods.

15 *-0728/6.165* **SECTION 2311.** 77.522 of the statutes is created to read:

16 **77.522 Sourcing. (1) GENERAL.** (a) In this section:

17 1. "Direct mail form" means a form for direct mail prescribed by the
18 department.

19 2. "Receive" means taking possession of tangible personal property; making
20 first use of services; or taking possession or making first use of digital goods,
21 whichever comes first. "Receive" does not include a shipping company taking
22 possession of tangible personal property on a purchaser's behalf.

23 3. "Transportation equipment" means any of the following:

24 a. Locomotives and railcars that are used to carry persons or property in
25 interstate commerce.

1 b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001
2 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are
3 registered under the international registration plan and operated under the
4 authority of a carrier that is authorized by the federal government to carry persons
5 or property in interstate commerce.

6 c. Aircraft that is operated by air carriers that are authorized by the federal
7 government or a foreign authority to carry persons or property in interstate or
8 foreign commerce.

9 d. Containers that are designed for use on the vehicles described in subd. 4. a.
10 to c. and component parts attached to or secured on such vehicles.

11 (b) Except as provided in par. (c) and subs. (2), (3), and (4), the location of a sale
12 is determined as follows:

13 1. If a purchaser receives the product at a seller's business location, the sale
14 occurs at that business location.

15 2. If a purchaser does not receive the product at a seller's business location, the
16 sale occurs at the location where the purchaser, or the purchaser's designated donee,
17 receives the product, including the location indicated by the instructions known to
18 the seller for delivery to the purchaser or the purchaser's designated donee.

19 3. If the location of a sale of a product cannot be determined under subs. 1. and
20 2., the sale occurs at the purchaser's address as indicated by the seller's business
21 records, if the records are maintained in the ordinary course of the seller's business
22 and if using that address to establish the location of a sale is not in bad faith.

23 4. If the location of a sale of a product cannot be determined under subs. 1. to
24 3., the sale occurs at the purchaser's address as obtained during the consummation

1 of the sale, including the address indicated on the purchaser's payment instrument,
2 if no other address is available and if using that address is not in bad faith.

3 5. If the location of a sale of a product cannot be determined under subs. 1. to
4 4., the location of the sale is determined as follows:

5 a. If the item sold is tangible personal property, the sale occurs at the location
6 from which the tangible personal property is shipped.

7 b. If the item sold is a digital good, or computer software delivered
8 electronically, the sale occurs at the location from which the digital good or computer
9 software was first available for transmission by the seller.

10 c. If a service is sold, the sale occurs at the location from which the service was
11 provided.

12 (c) The sale of direct mail occurs at the location from which the direct mail is
13 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
14 mail form, or other information that indicates the appropriate taxing jurisdiction to
15 which the direct mail is delivered to the ultimate recipients. If the purchaser
16 provides a direct mail form or direct pay permit to the seller, the purchaser shall pay
17 or remit, as appropriate, to the department the tax imposed under s. 77.53 on all
18 purchases for which the tax is due and the seller is relieved from liability for
19 collecting such tax or that satisfy the requirements under par. (e) or (f). A direct mail
20 form provided to a seller under this paragraph shall remain effective for all sales by
21 the seller who received the form to the purchaser who provided the form, unless the
22 purchaser revokes the form in writing and provides such revocation to the seller.

23 **(2) LEASE OR RENTAL.** (a) Except as provided in pars. (b) and (c), with regard
24 to the first or only payment on the lease or rental, the lease or rental of tangible
25 personal property occurs at the location determined under sub. (1) (b). If the property

1 is moved from the place where the property was initially delivered, the subsequent
2 periodic payments on the lease or rental occur at the property's primary location as
3 indicated by an address for the property that is provided by the lessee and that is
4 available to the lessor in records that the lessor maintains in the ordinary course of
5 the lessor's business, if the use of such an address does not constitute bad faith. The
6 location of a lease or rental as determined under this paragraph shall not be altered
7 by any intermittent use of the property at different locations.

8 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
9 that are not transportation equipment, occurs at the primary location of such motor
10 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property
11 that is provided by the lessee and that is available to the lessor in records that the
12 lessor maintains in the ordinary course of the lessor's business, if the use of such an
13 address does not constitute bad faith, except that a lease or rental under this
14 paragraph that requires only one payment occurs at the location determined under
15 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall
16 not be altered by any intermittent use of the property at different locations.

17 (c) The lease or rental of transportation equipment occurs at the location
18 determined under sub. (1) (b).

19 (d) A license of tangible personal property, specified digital goods, or additional
20 digital goods shall be treated as a lease or rental of tangible personal property under
21 this subsection.

22 (3) TELECOMMUNICATIONS. (a) In this subsection:

23 1. "Air-to-ground radiotelephone service" means a radio service in which
24 common carriers are authorized to offer and provide radio telecommunications
25 service for hire to subscribers in aircraft.

SECTION 2311

1 2. "Call-by-call basis" means any method of charging for telecommunications
2 services by which the price of such services is measured by individual calls.

3 3. "Communications channel" means a physical or virtual path of
4 communications over which signals are transmitted between or among customer
5 channel termination points.

6 4. "Customer" means a person who enters into a contract with a seller of
7 telecommunications services or, in any transaction for which the end user is not the
8 person who entered into a contract with the seller of telecommunications services,
9 the end user of the telecommunications services. "Customer" does not include a
10 person who resells telecommunications services or, for mobile telecommunications
11 services, a serving carrier under an agreement to serve a customer outside the home
12 service provider's licensed service area.

13 5. "Customer channel termination point" means the location where a customer
14 inputs or receives communications.

15 6. "End user" means an individual who uses a telecommunications service.

16 7. "Home service provider" means a home service provider under section 124
17 (5) of P.L. 106-252.

18 8. "Mobile telecommunications service" means a mobile telecommunications
19 service under 4 USC 116 to 126, as amended by P.L. 106-252.

20 9. "Place of primary use" means place of primary use, as determined under 4
21 USC 116 to 126, as amended by P.L. 106-252.

22 10. "Postpaid calling service" means a telecommunications service that is
23 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit
24 card, debit card, or similar method, or by charging it to a telephone number that is
25 not associated with the location where the telecommunications service originates or

1 terminates. "Postpaid calling service" includes a telecommunications service, not
2 including a prepaid wireless calling service, that would otherwise be a prepaid
3 calling service except that the service provided to the customer is not exclusively a
4 telecommunications service.

5 14. "Radio service" means a communication service provided by the use of radio,
6 including radiotelephone, radiotelegraph, paging, and facsimile service.

7 15. "Radiotelegraph service" means transmitting messages from one place to
8 another by means of radio.

9 16. "Radiotelephone service" means transmitting sound from one place to
10 another by means of radio.

11 (b) Except as provided in pars. (d) to (j), the sale of a telecommunications service
12 that is sold on a call-by-call basis occurs in the taxing jurisdiction for sales and use
13 tax purposes where the call originates and terminates, in the case of a call that
14 originates and terminates in the same such jurisdiction, or the taxing jurisdiction for
15 sales and use tax purposes where the call originates or terminates and where the
16 service address is located.

17 (c) Except as provided in pars. (d) to (j), the sale of a telecommunications service
18 that is sold on a basis other than a call-by-call basis occurs at the customer's place
19 of primary use.

20 (d) The sale of a mobile telecommunications service, except an air-to-ground
21 radiotelephone service and a prepaid calling service, occurs at the customer's place
22 of primary use.

23 (e) The sale of a postpaid calling service occurs at the location where the signal
24 of the telecommunications service originates, as first identified by the seller's
25 telecommunications system or, if the signal is not transmitted by the seller's

SECTION 2311

1 telecommunications system, by information that the seller received from the seller's
2 service provider.

3 (f) The sale of a prepaid calling service or a prepaid wireless calling service
4 occurs at the location determined under sub. (1) (b), except that, if the service is a
5 prepaid wireless calling service and the location cannot be determined under sub. (1)
6 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined
7 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,
8 as determined by the seller.

9 (g) 1. The sale of a private communication service for a separate charge related
10 to a customer channel termination point occurs at the location of the customer
11 channel termination point.

12 2. The sale of a private communication service in which all customer channel
13 termination points are located entirely in one taxing jurisdiction for sales and use
14 tax purposes occurs in the taxing jurisdiction in which the customer channel
15 termination points are located.

16 3. If the segments are charged separately, the sale of a private communication
17 service that represents segments of a communications channel between 2 customer
18 channel termination points that are located in different taxing jurisdictions for sales
19 and use tax purposes occurs in an equal percentage in both such jurisdictions.

20 4. If the segments are not charged separately, the sale of a private
21 communication service for segments of a communications channel that is located in
22 more than one taxing jurisdiction for sales and use tax purposes occurs in each such
23 jurisdiction in a percentage determined by dividing the number of customer channel
24 termination points in that jurisdiction by the number of customer channel

1 termination points in all jurisdictions where segments of the communications
2 channel are located.

3 (h) The sale of a telecommunications Internet access service occurs at the
4 customer's place of primary use.

5 (i) The sale of ancillary services occurs at the customer's place of primary use.

6 (j) If the location of the customer's service address, channel termination point,
7 or place of primary use is not known, the location where the seller receives or hands
8 off the signal shall be considered, for purposes of this section, the customer's service
9 address, channel termination point, or place of primary use.

10 (4) FLORISTS. (a) For purposes of this subsection, "retail florist" means a person
11 engaged in the business of selling cut flowers, floral arrangements, and potted plants
12 and who prepares such flowers, floral arrangements, and potted plants. "Retail
13 florist" does not include a person who sells cut flowers, floral arrangements, and
14 potted plants primarily by mail or via the Internet.

15 (b) The sale of tangible personal property by a retail florist who takes an order
16 from a purchaser occurs at the location where the retail florist takes the order, if the
17 retail florist forwards the order to another retail florist who is at a location other than
18 the location of the florist who takes the order and who transfers the tangible personal
19 property to a person identified by the purchaser.

20 (c) This subsection does not apply to sales occurring on or after January 1, 2008.

21 ***-0728/6.166* SECTION 2312.** 77.523 (title) of the statutes is repealed.

22 ***-0728/6.167* SECTION 2313.** 77.523 of the statutes is renumbered 77.59 (9p)

23 (a) and amended to read:

24 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116
25 to 126, as amended by P.L. 106-252, and if the customer believes that the amount

SECTION 2313

1 of the tax assessed for the service under this subchapter or the place of primary use
2 or taxing jurisdiction assigned to the service is erroneous, the customer may request
3 that the service provider correct the alleged error by sending a written notice to the
4 service provider. The notice shall include a description of the alleged error, the street
5 address for the customer's place of primary use of the service, the account name and
6 number of the service for which the customer seeks a correction, and any other
7 information that the service provider reasonably requires to process the request.
8 Within 60 days from the date that a service provider receives a request under this
9 section paragraph, the service provider shall review its records to determine the
10 customer's taxing jurisdiction. If the review indicates that there is no error as
11 alleged, the service provider shall explain the findings of the review in writing to the
12 customer. If the review indicates that there is an error as alleged, the service
13 provider shall correct the error and shall refund or credit the amount of any tax
14 collected erroneously, along with the related interest, as a result of the error from the
15 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
16 take no other action against the service provider, or commence any action, to correct
17 an alleged error in the amount of the tax assessed under this subchapter on a service
18 that is subject to 4 USC 116 to 126, as amended by P.L. 106-252, or to correct an
19 alleged error in the assigned place of primary use or taxing jurisdiction, unless the
20 customer has exhausted his or her remedies under this section paragraph.

21 ***-0728/6.168* SECTION 2314.** 77.524 (1) (a) of the statutes is renumbered
22 77.524 (1) (am).

23 ***-0728/6.169* SECTION 2315.** 77.524 (1) (ag) of the statutes is created to read:

1 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the
2 seller before the states that are signatories to the agreement, as defined in s. 77.65

3 (2) (a).

4 *-0728/6.170* SECTION 2316. 77.524 (1) (b) of the statutes is renumbered 77.51
5 (1g) and amended to read:

6 77.51 (1g) "Certified service provider" means an agent that is certified jointly
7 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and
8 that performs all of a seller's sales tax and use tax functions related to the seller's
9 retail sales, except that a certified service provider is not responsible for a retailer's
10 obligation to remit tax on the retailer's own purchases.

11 *-0728/6.171* SECTION 2317. 77.525 of the statutes is amended to read:

12 **77.525 Reduction to prevent double taxation.** Any person who is subject
13 to the tax under s. 77.52 (2) (a) 5. -a. on telecommunications services that terminate
14 in this state and who has paid a similar tax on the same services to another state may
15 reduce the amount of the tax remitted to this state by an amount equal to the similar
16 tax properly paid to another state on those services or by the amount due this state
17 on those services, whichever is less. That person shall refund proportionally to the
18 persons to whom the tax under s. 77.52 (2) (a) 5. -a. was passed on an amount equal
19 to the amounts not remitted.

20 *-0728/6.172* SECTION 2318. 77.53 (1) of the statutes is amended to read:

21 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
22 on the use or consumption in this state of taxable services under s. 77.52 purchased
23 from any retailer, at the rate of 5% of the sales purchase price of those services; on
24 the storage, use or other consumption in this state of tangible personal property
25 purchased from any retailer, at the rate of 5% of the sales purchase price of that

1 property; on the storage, use, or other consumption of specified digital goods or
2 additional digital goods purchased from any retailer, regardless of whether the
3 purchaser has the right to permanently use such goods or whether the purchaser's
4 right to access or retain such goods is not permanent, at the rate of 5% of the sales
5 price of such goods; and on the storage, use or other consumption of tangible personal
6 property manufactured, processed or otherwise altered, in or outside this state, by
7 the person who stores, uses or consumes it, from material purchased from any
8 retailer, at the rate of 5% of the sales purchase price of that material.

9 ***-0728/6.173*** SECTION 2319. 77.53 (2) of the statutes is amended to read:

10 77.53 (2) Every person storing, using, or otherwise consuming in this state
11 tangible personal property, specified digital goods, additional digital goods, or
12 taxable services purchased from a retailer is liable for the tax imposed by this section.
13 The person's liability is not extinguished until the tax has been paid to this state, but
14 a receipt with the tax separately stated from a retailer engaged in business in this
15 state or from a retailer who is authorized by the department, under such rules as it
16 prescribes, to collect the tax and who is regarded as a retailer engaged in business
17 in this state for purposes of the tax imposed by this section given to the purchaser
18 under sub. (3) relieves the purchaser from further liability for the tax to which the
19 receipt refers.

20 ***-0728/6.174*** SECTION 2320. 77.53 (3) of the statutes is amended to read:

21 77.53 (3) Every retailer engaged in business in this state and making sales of
22 tangible personal property, specified digital goods, additional digital goods, or
23 taxable services ~~for delivery into this state or with knowledge directly or indirectly~~
24 ~~that the property or service is intended for storage, use or other consumption in that~~
25 are sourced to this state under s. 77.522, shall, at the time of making the sales or, if

1 ~~the storage, use or other consumption of the tangible personal property or taxable~~
2 ~~service is not then taxable under this section, at the time the storage, use or other~~
3 ~~consumption becomes taxable, collect the tax from the purchaser and give to the~~
4 ~~purchaser a receipt in the manner and form prescribed by the department.~~

5 ***-0728/6.175* SECTION 2321.** 77.53 (4) of the statutes is repealed.

6 ***-0728/6.176* SECTION 2322.** 77.53 (9) of the statutes is amended to read:

7 77.53 (9) Every retailer selling tangible personal property, specified digital
8 goods, additional digital goods, or taxable services for storage, use or other
9 consumption in this state shall register with the department and obtain a certificate
10 under s. 73.03 (50) and give the name and address of all agents operating in this
11 state, the location of all distribution or sales houses or offices or other places of
12 business in this state, the standard industrial code classification of each place of
13 business in this state and the other information that the department requires. Any
14 person who may register under this subsection may designate an agent, as defined
15 in s. 77.524 (1) (ag), to register with the department under this subsection, in the
16 manner prescribed by the department.

17 ***-0728/6.177* SECTION 2323.** 77.53 (9m) of the statutes is renumbered 77.53

18 (9m) (a) and amended to read:

19 77.53 (9m) (a) Any person who is not otherwise required to collect any tax
20 imposed by this subchapter and who makes sales to persons within this state of
21 tangible personal property, specified digital goods, additional digital goods, or
22 taxable services the use of which is subject to tax under this subchapter may register
23 with the department under the terms and conditions that the department imposes
24 and shall obtain a valid certificate under s. 73.03 (50) and thereby be authorized and

1 required to collect, report, and remit to the department the use tax imposed by this
2 subchapter.

3 ***-0728/6.178* SECTION 2324.** 77.53 (9m) (b) of the statutes is created to read:

4 77.53 (9m) (b) Any person who may register under par. (a) may designate an
5 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
6 in the manner prescribed by the department.

7 ***-0728/6.179* SECTION 2325.** 77.53 (9m) (c) of the statutes is created to read:

8 77.53 (9m) (c) The registration under par. (a) by a person who is not otherwise
9 required to collect any tax imposed by this subchapter shall not be used as a factor
10 in determining whether the seller has nexus with this state for any tax at any time.

11 ***-0728/6.180* SECTION 2326.** 77.53 (10) of the statutes is amended to read:

12 77.53 (10) For the purpose of the proper administration of this section and to
13 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
14 tangible personal property, specified digital goods, additional digital goods, or
15 taxable services sold by any person for delivery in this state is sold for storage, use,
16 or other consumption in this state until the contrary is established. The burden of
17 proving the contrary is upon the person who makes the sale unless that person takes
18 from the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by
19 department, to the effect that the property, specified digital goods, additional digital
20 goods, or taxable service is purchased for resale, or otherwise exempt from the tax,
21 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are
22 sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required
23 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a
24 warehouse in or from which the commodity is deliverable on a contract for future
25 delivery subject to the rules of a commodity market regulated by the U.S. commodity

1 futures trading commission if upon the sale the commodity is not removed from the
2 warehouse the sale of tangible personal property, specified digital goods, additional
3 digital goods, and services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14),
4 (15), (17), (20n), (20p), (21), (22b), (22c), (30), (31), (32), (35), (36), (37), (42), (44), (45),
5 and (46), except as provided in s. 77.54 (30) (e) and (f).

6 ***-0728/6.181* SECTION 2327.** 77.53 (11) of the statutes is renumbered 77.53
7 (11) (a) and amended to read:

8 77.53 (11) (a) The certificate referred to in under sub. (10) relieves the person
9 selling the property, specified digital goods, additional digital goods, or service from
10 the burden of proof only if taken in good faith the seller obtains a fully completed
11 exemption certificate, or the information required to prove the exemption, from a
12 person who is engaged as a seller of tangible personal property or taxable services
13 and who holds the permit provided for by s. 77.52 (9) and who, at the time of
14 purchasing purchases no later than 90 days after the date of the sale of the tangible
15 personal property, specified digital goods, additional digital goods, or taxable service,
16 intends to sell it in the regular course of operations or is unable to ascertain at the
17 time of purchase whether the property or service will be sold or will be used for some
18 other purpose, or if taken in good faith from a person claiming exemption, except as
19 provided in par. (b). The certificate under sub. (10) shall not relieve the seller of the
20 burden of proof if the seller fraudulently fails to collect sales tax or solicits the
21 purchaser to claim an unlawful exemption, accepts an exemption certificate from a
22 purchaser who claims to be an entity that is not subject to the taxes imposed under
23 this subchapter, if the subject of the transaction sought to be covered by the
24 exemption certificate is received by the purchaser at a location operated by the seller
25 in this state and the exemption certificate clearly and affirmatively indicates that

1 ~~the claimed exemption is not available in this state. The certificate shall be signed~~
2 ~~by and bear the name and address of provide information that identifies the~~
3 ~~purchaser and shall indicate the number of the permit issued to the purchaser, the~~
4 ~~general character of tangible personal property or taxable service sold by the~~
5 ~~purchaser and the basis for the claimed exemption and a paper certificate shall be~~
6 ~~signed by the purchaser. The certificate shall be substantially in the form that the~~
7 ~~department prescribes by rule.~~

8 ***-0728/6.182*** SECTION 2328. 77.53 (11) (b) of the statutes is created to read:

9 77.53 (11) (b) If the seller has not obtained a fully completed exemption
10 certificate or the information required to prove the exemption, as provided in par. (a),
11 the seller may, no later than 120 days after the department requests that the seller
12 substantiate the exemption, either provide proof of the exemption to the department
13 by other means or obtain, in good faith, a fully completed exemption certificate from
14 the purchaser.

15 ***-0728/6.183*** SECTION 2329. 77.53 (12) of the statutes is amended to read:

16 77.53 (12) If a purchaser who gives a certificate makes any storage or use of
17 the property, specified digital goods, additional digital goods, or service other than
18 retention, demonstration, or display while holding it for sale in the regular course
19 of operations as a seller, the storage or use is taxable as of the time the property,
20 specified digital goods, additional digital goods, or service is first so stored or used.

21 ***-0728/6.184*** SECTION 2330. 77.53 (14) of the statutes is amended to read:

22 77.53 (14) It is presumed that tangible personal property, specified digital
23 goods, additional digital goods, or taxable services shipped or brought to this state
24 by the purchaser were purchased from or serviced by a retailer.

25 ***-0728/6.185*** SECTION 2331. 77.53 (15) of the statutes is amended to read:

1 77.53 (15) It is presumed that tangible personal property, specified digital
2 goods, additional digital goods, or taxable services delivered outside this state to a
3 purchaser known by the retailer to be a resident of this state were purchased from
4 a retailer for storage, use, or other consumption in this state and stored, used, or
5 otherwise consumed in this state. This presumption may be controverted by a
6 written statement, signed by the purchaser or an authorized representative, and
7 retained by the seller that the property, digital good, or service was purchased for use
8 at a designated point outside this state. This presumption may also be controverted
9 by other evidence satisfactory to the department that the property, digital good, or
10 service was not purchased for storage, use, or other consumption in this state.

11 *-0728/6.186* SECTION 2332. 77.53 (16) of the statutes is amended to read:

12 77.53 (16) If the purchase, rental or lease of tangible personal property,
13 specified digital goods, additional digital goods, or service subject to the tax imposed
14 by this section was subject to a sales tax by another state in which the purchase was
15 made, the amount of sales tax paid the other state shall be applied as a credit against
16 and deducted from the tax, to the extent thereof, imposed by this section, except no
17 credit may be applied against and deducted from a sales tax paid on the purchase of
18 direct mail, if the direct mail purchaser did not provide to the seller a direct pay
19 permit, a direct mail form, or other information that indicates the appropriate taxing
20 jurisdiction to which the direct mail is delivered to the ultimate recipients. In this
21 subsection "sales tax" includes a use or excise tax imposed on the use of tangible
22 personal property, specified digital goods, additional digital goods, or taxable service
23 by the state in which the sale occurred and "state" includes the District of Columbia
24 but does not include and the commonwealth of Puerto Rico or but does not include
25 the several territories organized by congress.

SECTION 2333

1 ***-0728/6.187* SECTION 2333.** 77.53 (17) of the statutes is amended to read:

2 77.53 (17) This section does not apply to tangible personal property, specified
3 digital goods, or additional digital goods purchased outside this state, as determined
4 under s. 77.522, other than motor vehicles, boats, snowmobiles, mobile homes not
5 exceeding 45 feet in length, trailers, semitrailers, all-terrain vehicles and airplanes
6 registered or titled or required to be registered or titled in this state, which is brought
7 into this state by a nondomiciliary for the person's own storage, use or other
8 consumption while temporarily within this state when such property or digital good
9 is not stored, used or otherwise consumed in this state in the conduct of a trade,
10 occupation, business or profession or in the performance of personal services for
11 wages or fees.

12 ***-0728/6.188* SECTION 2334.** 77.53 (17m) of the statutes is amended to read:

13 77.53 (17m) This section does not apply to a boat purchased in a state
14 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
15 state if the boat is berthed in this state's boundary waters adjacent to the state of the
16 domicile of the purchaser and if the transaction was an exempt occasional sale under
17 the laws of the state in which the purchase was made.

18 ***-0728/6.189* SECTION 2335.** 77.53 (17r) (a) of the statutes is amended to read:

19 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

20 ***-0728/6.190* SECTION 2336.** 77.53 (18) of the statutes is amended to read:

21 77.53 (18) This section does not apply to the storage, use or other consumption
22 in this state of household goods, specified digital goods, or additional digital goods
23 for personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile homes,
24 trailers, semitrailers and all-terrain vehicles, for personal use, purchased by a
25 nondomiciliary of this state outside this state, as determined under s. 77.522, 90 days

1 or more before bringing the goods or property into this state in connection with a
2 change of domicile to this state.

3 ***-0728/6.191* SECTION 2337.** 77.54 (1) of the statutes is amended to read:

4 77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or
5 other consumption in this state of tangible personal property and services the gross
6 receipts sales price from the sale of which, or the storage, use or other consumption
7 of which, this state is prohibited from taxing under the constitution or laws of the
8 United States or under the constitution of this state.

9 ***-0728/6.192* SECTION 2338.** 77.54 (2) of the statutes is amended to read:

10 77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or
11 other consumption of tangible personal property becoming an ingredient or
12 component part of an article of tangible personal property or which is consumed or
13 destroyed or loses its identity in the manufacture of tangible personal property in
14 any form destined for sale, except as provided in sub. (30) (a) 6.

15 ***-0728/6.193* SECTION 2339.** 77.54 (2m) of the statutes is amended to read:

16 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
17 or other consumption of tangible personal property or services that become an
18 ingredient or component of shoppers guides, newspapers or periodicals or that are
19 consumed or lose their identity in the manufacture of shoppers guides, newspapers
20 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
21 transferred without charge to the recipient. In this subsection, "shoppers guides",
22 "newspapers" and "periodicals" have the meanings under sub. (15). The exemption
23 under this subdivision does not apply to advertising supplements that are not
24 newspapers.

SECTION 2340

1 ***-0728/6.194* SECTION 2340.** 77.54 (3) (a) of the statutes, as affected by 2005
2 Wisconsin Act 366, is amended to read:

3 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,
4 or other consumption of tractors and machines, including accessories, attachments,
5 and parts, lubricants, nonpowered equipment, and other tangible personal property
6 that are used exclusively and directly, or are consumed or lose their identities, in the
7 business of farming, including dairy farming, agriculture, horticulture, floriculture,
8 silviculture, and custom farming services, but excluding automobiles, trucks, and
9 other motor vehicles for highway use; excluding personal property that is attached
10 to, fastened to, connected to, or built into real property or that becomes an addition
11 to, component of, or capital improvement of real property; and excluding tangible
12 personal property used or consumed in the erection of buildings or in the alteration,
13 repair or improvement of real property, regardless of any contribution that that
14 personal property makes to the production process in that building or real property
15 and regardless of the extent to which that personal property functions as a machine,
16 except as provided in par. (c).

17 ***-0728/6.195* SECTION 2341.** 77.54 (3m) (intro.) of the statutes, as affected by
18 2005 Wisconsin Act 366, is amended to read:

19 77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the
20 storage, use or other consumption of the following items if they are used exclusively
21 by the purchaser or user in the business of farming; including dairy farming,
22 agriculture, horticulture, floriculture, silviculture, and custom farming services:

23 ***-0728/6.196* SECTION 2342.** 77.54 (4) of the statutes is amended to read:

24 77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal
25 property, and the storage, use or other consumption in this state of tangible personal

1 property which is the subject of any such sale, by any elementary school or secondary
2 school, exempted as such from payment of income or franchise tax under ch. 71,
3 whether public or private.

4 ***-0728/6.197* SECTION 2343.** 77.54 (5) (intro.) of the statutes is amended to
5 read:

6 77.54 (5) (intro.) The gross receipts sales price from the sale of and the storage,
7 use or other consumption of:

8 ***-0728/6.198* SECTION 2344.** 77.54 (6) (intro.) of the statutes is amended to
9 read:

10 77.54 (6) (intro.) The gross receipts sales price from the sale of and the storage,
11 use or other consumption of:

12 ***-0728/6.199* SECTION 2345.** 77.54 (7m) of the statutes is amended to read:

13 77.54 (7m) Occasional sales of tangible personal property or services, including
14 admissions or tickets to an event; by a neighborhood association, church, civic group,
15 garden club, social club or similar nonprofit organization; not involving
16 entertainment for which payment in the aggregate exceeds \$500 for performing or
17 as reimbursement of expenses unless access to the event may be obtained without
18 payment of a direct or indirect admission fee; conducted by the organization if the
19 organization is not engaged in a trade or business and is not required to have a
20 seller's permit. For purposes of this subsection, an organization is engaged in a trade
21 or business and is required to have a seller's permit if its sales of tangible personal
22 property and services, not including sales of tickets to events, and its events occur
23 on more than 20 days during the year, unless its receipts do not exceed \$25,000
24 during the year. The exemption under this subsection does not apply to gross receipts

1 the sales price from the sale of bingo supplies to players or to the sale, rental or use
2 of regular bingo cards, extra regular cards and special bingo cards.

3 ***-0728/6.200* SECTION 2346.** 77.54 (8) of the statutes is amended to read:

4 77.54 (8) Charges for interest, ~~financing or insurance,~~ not including contracts
5 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the
6 invoice given by the seller to the purchaser.

7 ***-0728/6.201* SECTION 2347.** 77.54 (9) of the statutes is amended to read:

8 77.54 (9) The gross receipts sales price from sales of tickets or admissions to
9 public and private elementary and secondary school activities, where the entire net
10 proceeds therefrom are expended for educational, religious or charitable purposes.

11 ***-0728/6.202* SECTION 2348.** 77.54 (9a) (intro.) of the statutes is amended to
12 read:

13 77.54 (9a) (intro.) The gross receipts sales price from sales to, and the storage
14 by, use by or other consumption of tangible personal property and taxable services
15 by:

16 ***-1272/5.30* SECTION 2349.** 77.54 (9a) (a) of the statutes is amended to read:

17 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
18 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
19 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
20 Fox River Navigational System Authority.

21 ***-0728/6.203* SECTION 2350.** 77.54 (10) of the statutes is amended to read:

22 77.54 (10) The gross receipts sales price from the sale of all admission fees,
23 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees
24 to any museum operated by a nonprofit corporation under a lease agreement with
25 the state historical society.

1 ***-0728/6.204* SECTION 2351.** 77.54 (11) of the statutes is amended to read:

2 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
3 or other consumption in this state of motor vehicle fuel, general aviation fuel or
4 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
5 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
6 in operating a motor vehicle upon the public highways.

7 ***-0728/6.205* SECTION 2352.** 77.54 (12) of the statutes is amended to read:

8 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
9 or other consumption in this state of rail freight or passenger cars, locomotives or
10 other rolling stock used in railroad operations, or accessories, attachments, parts,
11 lubricants or fuel therefor.

12 ***-0728/6.206* SECTION 2353.** 77.54 (13) of the statutes is amended to read:

13 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
14 or other consumption in this state of commercial vessels and barges of 50-ton burden
15 or over primarily engaged in interstate or foreign commerce or commercial fishing,
16 and the accessories, attachments, parts and fuel therefor.

17 ***-0728/6.207* SECTION 2354.** 77.54 (14) (intro.) of the statutes is amended to
18 read:

19 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
20 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
21 the following:

22 ***-0728/6.208* SECTION 2355.** 77.54 (14) (a) of the statutes is amended to read:

23 77.54 (14) (a) Prescribed for the treatment of a human being by a person
24 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
25 a registered pharmacist in accordance with law.

1 ***-0728/6.209* SECTION 2356.** 77.54 (14) (b) of the statutes is amended to read:

2 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist

3 to a patient who is a human being for treatment of the patient.

4 ***-0728/6.210* SECTION 2357.** 77.54 (14) (f) (intro.) of the statutes is amended

5 to read:

6 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the

7 medicine drug may not be dispensed without a prescription:

8 ***-0728/6.211* SECTION 2358.** 77.54 (14g) of the statutes is repealed.

9 ***-0728/6.212* SECTION 2359.** 77.54 (14s) of the statutes is repealed.

10 ***-0728/6.213* SECTION 2360.** 77.54 (15) of the statutes is amended to read:

11 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use

12 or other consumption of all newspapers, of periodicals sold by subscription and

13 regularly issued at average intervals not exceeding 3 months, or issued at average

14 intervals not exceeding 6 months by an educational association or corporation sales

15 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to

16 commercial publishers for distribution without charge or mainly without charge or

17 regularly distributed by or on behalf of publishers without charge or mainly without

18 charge to the recipient and of shoppers guides which distribute no less than 48 issues

19 in a 12-month period. In this subsection, "shoppers guide" means a community

20 publication delivered, or attempted to be delivered, to most of the households in its

21 coverage area without a required subscription fee, which advertises a broad range

22 of products and services offered by several types of businesses and individuals. In

23 this subsection, "controlled circulation publication" means a publication that has at

24 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes

25 not more than 75% of its pages to advertising and that is not conducted as an

1 auxiliary to, and essentially for the advancement of, the main business or calling of
2 the person that owns and controls it.

3 ***-0728/6.214* SECTION 2361.** 77.54 (16) of the statutes is amended to read:

4 77.54 (16) The gross receipts sales price from the sale of and the storage, use
5 or other consumption of fire trucks and fire fighting equipment, including
6 accessories, attachments, parts and supplies therefor, sold to volunteer fire
7 departments.

8 ***-0728/6.215* SECTION 2362.** 77.54 (17) of the statutes is amended to read:

9 77.54 (17) The gross receipts sales price from the sales of and the storage, use
10 or other consumption of water, that is not food and food ingredient, when delivered
11 through mains.

12 ***-0728/6.216* SECTION 2363.** 77.54 (18) of the statutes is amended to read:

13 77.54 (18) When the sale, lease or rental of a service or property that was
14 previously exempt or not taxable under this subchapter becomes taxable, and the
15 service or property is furnished under a written contract by which the seller is
16 unconditionally obligated to provide the service or property for the amount fixed
17 under the contract, the seller is exempt from sales or use tax on the gross receipts
18 sales price for services or property provided until the contract is terminated,
19 extended, renewed or modified. However, from the time the service or property
20 becomes taxable until the contract is terminated, extended, renewed or modified the
21 user is subject to use tax, measured by the sales purchase price, on the service or
22 property purchased under the contract.

23 ***-0728/6.217* SECTION 2364.** 77.54 (20) of the statutes is repealed.

24 ***-0728/6.218* SECTION 2365.** 77.54 (20m) of the statutes is repealed.

25 ***-0728/6.219* SECTION 2366.** 77.54 (20n) of the statutes is created to read:

1 77.54 (20n) (a) The sales price from the sale of and the storage, use, or other
2 consumption of food and food ingredients, except candy, soft drinks, dietary
3 supplements, and prepared food.

4 (b) The sales price from the sale of and the storage, use, or other consumption
5 of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums,
6 nursing homes, retirement homes, community-based residential facilities, as
7 defined in s. 50.01 (1g), or day care centers registered under ch. 48, including
8 prepared food that is sold to the elderly or handicapped by persons providing mobile
9 meals on wheels. In this paragraph, "retirement home" means a nonprofit
10 residential facility where 3 or more unrelated adults or their spouses have their
11 principal residence and where support services, including meals from a common
12 kitchen, are available to residents.

13 (c) The sales price from the sale of and the storage, use, or other consumption
14 of food and food ingredients, furnished in accordance with any contract or agreement
15 or paid for to such institution through the use of an account of such institution, by
16 a public or private institution of higher education to any of the following:

17 1. An undergraduate student, a graduate student, or a student enrolled in a
18 professional school if the student is enrolled for credit at the public or private
19 institution of higher education and if the food and food ingredients are consumed by
20 the student.

21 2. A national football league team.

22 *-0728/6.220* SECTION 2367. 77.54 (20p) of the statutes is created to read:

23 77.54 (20p) The sales price from the sale of and the storage, use, or other
24 consumption of taxable and exempt food and food ingredients that are packaged
25 together if 50 percent or more of the sales price of the items packaged together is

1 attributable to food and food ingredients that are exempt from the taxes imposed
2 under this subchapter. If more than 50 percent of the sales price is attributable to
3 items that are subject to the taxes imposed under this subchapter, the entire sales
4 price is subject to the taxes imposed under this subchapter, regardless of any
5 exemption under this section that otherwise applies to the remaining items.

6 ***-0728/6.221* SECTION 2368.** 77.54 (20r) of the statutes is created to read:

7 77.54 (20r) The sales price from the sales of and the storage, use, or other
8 consumption of candy, soft drinks, dietary supplements, and prepared foods, and
9 disposable products that are transferred with such items, furnished for no
10 consideration by a restaurant to the restaurant's employee during the employee's
11 work hours.

12 ***-0728/6.222* SECTION 2369.** 77.54 (21) of the statutes is amended to read:

13 77.54 (21) The gross receipts sales price from the sales of and the storage, use
14 or other consumption of caskets and burial vaults for human remains.

15 ***-0728/6.223* SECTION 2370.** 77.54 (22) of the statutes is repealed.

16 ***-0728/6.224* SECTION 2371.** 77.54 (22b) of the statutes is created to read:

17 77.54 (22b) The sales price from the sale of and the storage, use, or other
18 consumption of durable medical equipment that is for use in a person's home,
19 mobility-enhancing equipment, and prosthetic devices, and accessories for such
20 equipment or devices, if the equipment or devices are used for a human being.

21 ***-0728/6.225* SECTION 2372.** 77.54 (22c) of the statutes is created to read:

22 77.54 (22c) The sales price from the sale of and the storage, use, or other
23 consumption of tangible personal property that is subject to the taxes imposed under
24 this subchapter and items described under sub. (22b), if such property and items are
25 packaged together and if 50 percent or more of the sales price of the property and

SECTION 2372

1 items packaged together is attributable to the items described under sub. (22b). If
2 more than 50 percent of the sales price is attributable to tangible personal property
3 that is subject to the taxes imposed under this subchapter, the entire sales price is
4 subject to the taxes imposed under this subchapter, regardless of the exemption
5 under sub. (22b).

6 ***-1274/4.1* SECTION 2373.** 77.54 (23m) of the statutes is amended to read:

7 **77.54 (23m)** The gross receipts from the sale, lease or rental of or the storage,
8 use or other consumption of motion picture film or tape, and motion pictures or radio
9 or television programs for listening, viewing, or broadcast, and advertising materials
10 related thereto, sold, leased or rented to a motion picture theater or radio or
11 television station.

12 ***-0728/6.226* SECTION 2374.** 77.54 (23m) of the statutes, as affected by 2007
13 Wisconsin Act (this act), is amended to read:

14 **77.54 (23m)** The ~~gross receipts~~ sales price from the sale, lease or rental of or
15 the storage, use or other consumption of motion picture film or tape, and motion
16 pictures or radio or television programs for listening, viewing, or broadcast, and
17 advertising materials related thereto, sold, leased or rented to a motion picture
18 theater or radio or television station.

19 ***-0728/6.227* SECTION 2375.** 77.54 (25) of the statutes is amended to read:

20 **77.54 (25)** The ~~gross receipts~~ sales price from the sale of and the storage of
21 printed material which is designed to advertise and promote the sale of merchandise,
22 or to advertise the services of individual business firms, which printed material is
23 purchased and stored for the purpose of subsequently transporting it outside the
24 state by the purchaser for use thereafter solely outside the state.

1 ***-1823/2.3* SECTION 2376.** 77.54 (25) of the statutes, as affected by 2007
2 Wisconsin Act ... (this act), is amended to read:

3 **77.54 (25)** The sales price from the sale of and the storage of printed material
4 which is designed to advertise and promote the sale of merchandise, or to advertise
5 the services of individual business firms, which printed material is purchased and
6 stored for the purpose of subsequently transporting it outside the state by the
7 purchaser for use thereafter solely outside the state. This subsection does not apply
8 to catalogs and the envelopes in which the catalogs are mailed.

 ****NOTE: This is reconciled s. 77.54 (25). This SECTION has been affected by drafts
 with the following LRB numbers: 0728 and 1823.

9 ***-1823/2.4* SECTION 2377.** 77.54 (25m) of the statutes is created to read:
10 **77.54 (25m)** The sales price from the sale of and the storage, use, or other
11 consumption of catalogs, and the envelopes in which the catalogs are mailed, that are
12 designed to advertise and promote the sale of merchandise or to advertise the
13 services of individual business firms.

 ****NOTE: This is reconciled s. 77.54 (25m). This SECTION has been affected by drafts
 with the following LRB numbers: 0728 and 1823.

14 ***-0728/6.228* SECTION 2378.** 77.54 (26) of the statutes is amended to read:
15 **77.54 (26)** The ~~gross receipts~~ sales price from the sales of and the storage, use,
16 or other consumption of tangible personal property which becomes a component part
17 of an industrial waste treatment facility that is exempt under s. 70.11 (21) (a) or that
18 would be exempt under s. 70.11 (21) (a) if the property were taxable under ch. 70, or
19 tangible personal property which becomes a component part of a waste treatment
20 facility of this state or any agency thereof, or any political subdivision of the state or
21 agency thereof as provided in s. 40.02 (28). The exemption includes replacement
22 parts therefor, and also applies to chemicals and supplies used or consumed in

1 operating a waste treatment facility and to purchases of tangible personal property
2 made by construction contractors who transfer such property to their customers in
3 fulfillment of a real property construction activity. This exemption does not apply
4 to tangible personal property installed in fulfillment of a written construction
5 contract entered into, or a formal written bid made, prior to July 31, 1975.

6 ***-0728/6.229* SECTION 2379.** 77.54 (26m) of the statutes is amended to read:

7 **77.54 (26m)** The ~~gross receipts~~ sales price from the sale of and the storage, use
8 or other consumption of waste reduction or recycling machinery and equipment,
9 including parts therefor, exclusively and directly used for waste reduction or
10 recycling activities which reduce the amount of solid waste generated, reuse solid
11 waste, recycle solid waste, compost solid waste or recover energy from solid waste.

12 The exemption applies even though an economically useful end product results from
13 the use of the machinery and equipment. For the purposes of this subsection, "solid
14 waste" means garbage, refuse, sludge or other materials or articles, whether these
15 materials or articles are discarded or purchased, including solid, semisolid, liquid or
16 contained gaseous materials or articles resulting from industrial, commercial,
17 mining or agricultural operations or from domestic use or from public service
18 activities.

19 ***-0728/6.230* SECTION 2380.** 77.54 (27) of the statutes is amended to read:

20 **77.54 (27)** The ~~gross receipts~~ sales price from the sale of semen used for
21 artificial insemination of livestock.

22 ***-0728/6.231* SECTION 2381.** 77.54 (28) of the statutes is amended to read:

23 **77.54 (28)** The ~~gross receipts~~ sales price from the sale of and the storage, use
24 or other consumption to or by the ultimate consumer of ~~apparatus or equipment~~ for

1 the injection of insulin or the treatment of diabetes and supplies used to determine
2 blood sugar level.

3 ***-0728/6.232* SECTION 2382.** 77.54 (29) of the statutes is amended to read:

4 77.54 (29) The ~~gross receipts~~ sales price from the sales of and the storage, use
5 or other consumption of equipment used in the production of maple syrup.

6 ***-0728/6.233* SECTION 2383.** 77.54 (30) (a) (intro.) of the statutes is amended
7 to read:

8 77.54 (30) (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

9 ***-0728/6.234* SECTION 2384.** 77.54 (30) (c) of the statutes is amended to read:

10 77.54 (30) (c) If fuel or electricity is sold partly for a use exempt under this
11 subsection and partly for a use which is not exempt under this subsection, no tax
12 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
13 percentage of the fuel or electricity which is used for an exempt use, as specified in
14 an exemption certificate provided by the purchaser to the seller.

15 ***-0728/6.235* SECTION 2385.** 77.54 (31) of the statutes is amended to read:

16 77.54 (31) The ~~gross receipts~~ sales price from the sale of and the storage, use
17 or other consumption in this state, but not the lease or rental, of used mobile homes
18 that are primary housing units under s. 340.01 (29).

19 ***-0728/6.236* SECTION 2386.** 77.54 (32) of the statutes is amended to read:

20 77.54 (32) The ~~gross receipts~~ sales price from charges, including charges for a
21 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
22 that a person may examine and use under s. 16.61 (12) or for copies of a record under
23 s. 19.35 (1).

24 ***-0728/6.237* SECTION 2387.** 77.54 (33) of the statutes is amended to read:

1 77.54 (33) The ~~gross receipts~~ sales price from sales of and the storage, use or
2 other consumption of medicines drugs used on farm livestock, not including
3 workstock.

4 ***-0728/6.238*** SECTION 2388. 77.54 (35) of the statutes is amended to read:

5 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
6 property, tickets or admissions by any baseball team affiliated with the Wisconsin
7 Department of American Legion baseball.

8 ***-0728/6.239*** SECTION 2389. 77.54 (36) of the statutes is amended to read:

9 77.54 (36) The ~~gross receipts~~ sales price from the rental for a continuous period
10 of one month or more of a mobile home, as defined in s. 66.0435 (1) (d), that is used
11 as a residence. In this subsection, "one month" means a calendar month or 30 days,
12 whichever is less, counting the first day of the rental and not counting the last day
13 of the rental.

14 ***-0728/6.240*** SECTION 2390. 77.54 (37) of the statutes is amended to read:

15 77.54 (37) The ~~gross receipts~~ sales price from revenues collected under s.
16 146.70 (3) and the surcharge established by rule by the public service commission
17 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
18 (3m) (a) 6.

19 ***-0728/6.241*** SECTION 2391. 77.54 (38) of the statutes is amended to read:

20 77.54 (38) The ~~gross receipts~~ sales price from the sale of and the storage, use
21 or other consumption of snowmobile trail groomers and attachments for them that
22 are purchased, stored, used or consumed by a snowmobile club that meets at least
23 3 times a year, that has at least 10 members, that promotes snowmobiling and that
24 participates in the department of natural resources' snowmobile program under s.
25 350.12 (4) (b).

1 ***-0728/6.242* SECTION 2392.** 77.54 (39) of the statutes is amended to read:

2 77.54 (39) The ~~gross receipts~~ sales price from the sale of and the storage, use
3 or other consumption of off-highway, heavy mechanical equipment such as feller
4 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
5 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
6 directly in the harvesting or processing of raw timber products in the field by a person
7 in the logging business. In this subsection, "heavy mechanical equipment" does not
8 include hand tools such as axes, chains, chain saws and wedges.

9 ***-0728/6.243* SECTION 2393.** 77.54 (40) of the statutes is repealed.

10 ***-0728/6.244* SECTION 2394.** 77.54 (41) of the statutes is amended to read:

11 77.54 (41) The ~~gross receipts~~ sales price from the sale of building materials,
12 supplies and equipment to; and the storage, use or other consumption of those kinds
13 of property by; owners, contractors, subcontractors or builders if that property is
14 acquired solely for or used solely in, the construction, renovation or development of
15 property that would be exempt under s. 70.11 (36).

16 ***-0728/6.245* SECTION 2395.** 77.54 (42) of the statutes is amended to read:

17 77.54 (42) The ~~gross receipts~~ sales price from the sale of and the storage, use
18 or other consumption of animal identification tags provided under s. 93.06 (1h) and
19 standard samples provided under s. 93.06 (1s).

20 ***-0728/6.246* SECTION 2396.** 77.54 (43) of the statutes is amended to read:

21 77.54 (43) The ~~gross receipts~~ sales price from the sale of and the storage, use
22 or other consumption of raw materials used for the processing, fabricating or
23 manufacturing of, or the attaching to or incorporating into, printed materials that
24 are transported and used solely outside this state.

1 ***-0728/6.247* SECTION 2397.** 77.54 (44) of the statutes, as affected by 2005
2 Wisconsin Act 141, is amended to read:

3 77.54 (44) The ~~gross receipts~~ sales price from the collection of low-income
4 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

5 ***-0728/6.248* SECTION 2398.** 77.54 (45) of the statutes is amended to read:

6 77.54 (45) The ~~gross receipts~~ sales price from the sale of and the use or other
7 consumption of a onetime license or similar right to purchase admission to
8 professional football games at a football stadium, as defined in s. 229.821 (6), that
9 is granted by a municipality; a local professional football stadium district; or a
10 professional football team or related party, as defined in s. 229.821 (12); if the person
11 who buys the license or right is entitled, at the time the license or right is transferred
12 to the person, to purchase admission to at least 3 professional football games in this
13 state during one football season.

14 ***-0728/6.249* SECTION 2399.** 77.54 (46) of the statutes is amended to read:

15 77.54 (46) The ~~gross receipts~~ sales price from the sale of and the storage, use,
16 or other consumption of the U.S. flag or the state flag. This subsection does not apply
17 to a representation of the U.S. flag or the state flag.

18 ***-0728/6.250* SECTION 2400.** 77.54 (46m) of the statutes is amended to read:

19 77.54 (46m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
20 or other consumption of telecommunications services, if the telecommunications
21 services are obtained by using the rights to purchase telecommunications services,
22 including purchasing reauthorization numbers, by paying in advance and by using
23 an access number and authorization code; and if the tax imposed under s. 77.52 or
24 77.53 was previously paid on the sale or purchase of such rights.

1 ***-0728/6.251* SECTION 2401.** 77.54 (47) (intro.) of the statutes is amended to
2 read:

3 77.54 (47) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
4 use, or other consumption of all of the following:

5 ***-0728/6.252* SECTION 2402.** 77.54 (47) (b) 1. and 2. of the statutes are
6 amended to read:

7 77.54 (47) (b) 1. The shooting facility is required to pay the tax imposed under
8 s. 77.52 on its ~~gross receipts~~ the sales price from charges for shooting at the facility.

9 2. The shooting facility is a nonprofit organization that charges for shooting at
10 the facility, but is not required to pay the tax imposed under s. 77.52 on its ~~gross~~
11 ~~receipts~~ the sales price from such charges because the charges are for occasional
12 sales, as provided under sub. (7m).

13 ***-0728/6.253* SECTION 2403.** 77.54 (48) (a) of the statutes is renumbered
14 77.585 (9) (a) and amended to read:

15 77.585 (9) (a) Subject to 2005 Wisconsin Act 479, section 17, the ~~gross receipts~~
16 ~~from the sale of and the storage, use, or other consumption~~ a purchaser may claim
17 as a deduction that portion of its purchase price of Internet equipment used in the
18 broadband market for which the tax was imposed under this subchapter, if the
19 purchaser certifies to the department of commerce, in the manner prescribed by the
20 department of commerce, that the purchaser will, within 24 months after July 1,
21 2007, make an investment that is reasonably calculated to increase broadband
22 Internet availability in this state. The purchaser shall claim the deduction in the
23 same reporting period as the purchaser paid the tax imposed under this subchapter.

24 ***-0728/6.254* SECTION 2404.** 77.54 (48) (b) of the statutes is renumbered
25 77.585 (9) (b).

1 *-0728/6.255* SECTION 2405. 77.54 (49) of the statutes is amended to read:

2 77.54 (49) The gross receipts sales price from the sale of and the storage, use,
3 or other consumption of taxable services and tangible personal property that is
4 physically transferred to the purchaser as a necessary part of services that are
5 subject to the taxes imposed under s. 77.52 (2) (a) 7., 10., 11., and 20., if the seller and
6 the purchaser of such services and property are members of the same affiliated group
7 under section 1504 of the Internal Revenue Code and are eligible to file a single
8 consolidated return for federal income tax purposes. For purposes of this subsection,
9 if a seller purchases a taxable service or tangible personal property, as described in
10 the subsection, that is subsequently sold to a member of the seller's affiliated group
11 and the sale is exempt under this subsection from the taxes imposed under this
12 subchapter, the original purchase of the taxable service or tangible personal property
13 by the seller is not considered a sale for resale or exempt under this subsection.

14 *-0728/6.256* SECTION 2406. 77.54 (50) of the statutes is created to read:

15 77.54 (50) The sales price from the sale of and the storage, use, or other
16 consumption of specified digital goods or additional digital goods that are transferred
17 electronically to the purchaser, if the sale of and the storage, use, or other
18 consumption of such goods sold in a tangible form is exempt from taxation under this
19 subchapter.

20 *-0728/6.257* SECTION 2407. 77.54 (51) of the statutes is created to read:

21 77.54 (51) The sales price from the sales of and the storage, use, or other
22 consumption of products sold in a transaction that would be a bundled transaction,
23 except that it contains taxable and nontaxable products as described in s. 77.51 (1f)
24 (d), and except that the first person combining the products shall pay the tax imposed
25 under this subchapter on the person's purchase price of the taxable items.