

SECTION 2300

1 *-0728/6.148* SECTION 2300. 77.52 (3n) of the statutes is repealed.

2 *-0728/6.149* SECTION 2301. 77.52 (4) of the statutes is amended to read:

3 77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the
4 public or to any customer, directly or indirectly, that the tax or any part thereof will
5 be assumed or absorbed by the retailer or that it will not be added to the selling price
6 of the property, specified digital goods, or additional digital goods sold or that if added
7 it, or any part thereof, will be refunded. Any person who violates this subsection is
8 guilty of a misdemeanor.

9 *-0728/6.150* SECTION 2302. 77.52 (6) of the statutes is repealed.

10 *-0728/6.151* SECTION 2303. 77.52 (7) of the statutes is amended to read:

11 77.52 (7) Every person desiring to operate as a seller within this state who
12 holds a valid certificate under s. 73.03 (50) shall file with the department an
13 application for a permit for each place of operations. Every application for a permit
14 shall be made upon a form prescribed by the department and shall set forth the name
15 under which the applicant intends to operate, the location of the applicant's place of
16 operations, and the other information that the department requires. The Except as
17 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
18 in the case of sellers other than sole proprietors, the application shall be signed by
19 the person authorized to act on behalf of such sellers. A nonprofit organization that
20 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's
21 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
22 received after it is required to obtain that permit. If that organization becomes
23 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
24 seller's permit, it may surrender that permit.

25 *-0728/6.152* SECTION 2304. 77.52 (7b) of the statutes is created to read:

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

4 *-0728/6.153* SECTION 2305. 77.52 (12) of the statutes is amended to read:

5 77.52 (12) A person who operates as a seller in this state without a permit or
6 after a permit has been suspended or revoked or has expired, unless the person has
7 a temporary permit under sub. (11), and each officer of any corporation, partnership
8 member, limited liability company member, or other person authorized to act on
9 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held
10 only by persons actively operating as sellers of tangible personal property, specified
11 digital goods, additional digital goods, or taxable services. Any person not so
12 operating shall forthwith surrender that person's permit to the department for
13 cancellation. The department may revoke the permit of a person found not to be
14 actively operating as a seller of tangible personal property, specified digital goods,
15 additional digital goods, or taxable services.

16 *-0728/6.154* SECTION 2306. 77.52 (13) of the statutes is amended to read:

17 77.52 (13) For the purpose of the proper administration of this section and to
18 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
19 the tax until the contrary is established. The burden of proving that a sale of tangible
20 personal property, specified digital goods, additional digital goods, or services is not
21 a taxable sale at retail is upon the person who makes the sale unless that person
22 takes from the purchaser ~~a~~ an electronic or a paper certificate, in a manner
23 prescribed by the department, to the effect that the property, digital good or service
24 is purchased for resale or is otherwise exempt, except that no certificate is required
25 for sales of cattle, sheep, goats, and pigs that are sold at an animal market, as defined

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1 in s. 95.68 (1) (ag), and no certificate is required for sales of commodities, as defined
2 in ~~7 USC 2~~, that are consigned for sale in a warehouse in or from which the
3 commodity is deliverable on a contract for future delivery subject to the rules of a
4 commodity market regulated by the U.S. commodity futures trading commission if
5 upon the sale the commodity is not removed from the warehouse the sale of tangible
6 personal property, specified digital goods, additional digital goods, and services that
7 are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b),
8 (30), (31), (32), (35), (36), (37), (42), (44), (45), and (46), except as provided in s. 77.54
9 (30) (e) and (f).

10 ***-0728/6.155*** SECTION 2307. 77.52 (14) (a) (intro.) and 1. and (b) of the
11 statutes are consolidated, renumbered 77.52 (14) (a) and amended to read:

12 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the
13 burden of proof only if any of the following is true: 1. The certificate is taken in good
14 faith the seller obtains a fully completed exemption certificate, or the information
15 required to prove the exemption, from a person who is engaged as a seller of tangible
16 personal property or taxable services and who holds the permit provided for in sub.
17 (9) and who, at the time of purchasing purchaser no later than 90 days after the date
18 of the sale of the tangible personal property, specified digital goods, additional digital
19 goods, or services, intends to sell it in the regular course of operations or is unable
20 to ascertain at the time of purchase whether the property or service will be sold or
21 will be used for some other purpose. (b) except as provided in par. (am). The
22 certificate under sub. (13) shall not relieve the seller of the burden of proof if the seller
23 fraudulently fails to collect sales tax, solicits the purchaser to claim an unlawful
24 exemption, accepts an exemption certificate from a purchaser who claims to be an
25 entity that is not subject to the taxes imposed under this subchapter, if the subject

1 of the transaction sought to be covered by the exemption certificate is received by the
2 purchaser at a location operated by the seller in this state and the exemption
3 certificate clearly and affirmatively indicates that the claimed exemption is not
4 available in this state. The certificate referred to in sub. (13) shall be signed by and
5 bear the name and address of provide information that identifies the purchaser, and
6 shall indicate the general character of the ~~tangible personal property or service sold~~
7 ~~by the purchaser and the basis for the claimed exemption and a paper certificate~~
8 shall be signed by the purchaser. The certificate shall be in such form as the
9 department prescribes by rule.

10 ***-0728/6.156* SECTION 2308.** 77.52 (14) (a) 2. of the statutes is repealed.

11 ***-0728/6.157* SECTION 2309.** 77.52 (14) (am) of the statutes is created to read:

12 77.52 (14) (am) If the seller has not obtained a fully completed exemption
13 certificate or the information required to prove the exemption, as provided in par. (a),
14 the seller may, no later than 120 days after the department requests that the seller
15 substantiate the exemption, either provide proof of the exemption to the department
16 by other means or obtain, in good faith, a fully completed exemption certificate from
17 the purchaser.

18 ***-0728/6.158* SECTION 2310.** 77.52 (15) of the statutes is amended to read:

19 77.52 (15) If a purchaser who ~~gives a resale certificate~~ purchases tangible
20 personal property, specified digital goods, additional digital goods, or taxable
21 services without paying a sales tax or use tax on such purchase because such
22 property, goods, or services were for resale makes any use of the property, goods, or
23 services other than retention, demonstration or display while holding it the property,
24 goods, or services for sale, lease or rental in the regular course of the purchaser's
25 operations, the use shall be taxable to the purchaser under s. 77.53 as of the time that

1 the property is, goods, or services are first used by the purchaser, and the sales
2 purchase price of the property, goods, or services to the purchaser shall be the
3 measure of the tax. Only when there is an unsatisfied use tax liability on this basis
4 because the seller has provided incorrect information about that transaction to the
5 department shall the seller be liable for sales tax with respect to the sale of the
6 property to the purchaser.

7 ***-0728/6.159* SECTION 2311.** 77.52 (16) of the statutes is amended to read:

8 77.52 (16) Any person who gives a resale certificate for property, specified
9 digital goods, additional digital goods, or services which that person knows at the
10 time of purchase is not to be resold by that person in the regular course of that
11 person's operations as a seller for the purpose of evading payment to the seller of the
12 amount of the tax applicable to the transaction is guilty of a misdemeanor. Any
13 person certifying to the seller that the sale of property, specified digital goods,
14 additional digital goods, or taxable service is exempt, knowing at the time of
15 purchase that it is not exempt, for the purpose of evading payment to the seller of the
16 amount of the tax applicable to the transaction, is guilty of a misdemeanor.

17 ***-0728/6.160* SECTION 2312.** 77.52 (19) of the statutes is amended to read:

18 77.52 (19) The department shall by rule provide for the efficient collection of
19 the taxes imposed by this subchapter on sales of property, specified digital goods,
20 additional digital goods, or services by persons not regularly engaged in selling at
21 retail in this state or not having a permanent place of business, but who are
22 temporarily engaged in selling from trucks, portable roadside stands, concessions at
23 fairs and carnivals, and the like. The department may authorize such persons to sell
24 property, specified digital goods, or additional digital goods or sell, perform, or

1 furnish services on a permit or nonpermit basis as the department by rule prescribes
2 and failure of any person to comply with such rules constitutes a misdemeanor.

3 ***-0728/6.161* SECTION 2313.** 77.52 (20) of the statutes is created to read:

4 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled
5 transaction is subject to the tax imposed under this subchapter.

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

14 ***-0728/6.162* SECTION 2314.** 77.52 (21) of the statutes is created to read:

15 77.52 (21) A person who provides a product that is not a distinct and
16 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)

17 (b), is the consumer of that product and shall pay the tax imposed under this
18 subchapter on the purchase price of that product.

19 ***-0728/6.163* SECTION 2315.** 77.52 (22) of the statutes is created to read:

20 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service
21 provider is the consumer of the tangible personal property, specified digital goods,
22 or additional digital goods and shall pay the tax imposed under this subchapter on
23 the purchase price of the property or goods.

24 ***-0728/6.164* SECTION 2316.** 77.52 (23) of the statutes is created to read:

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

5 ***-0728/6.165* SECTION 2317.** 77.522 of the statutes is created to read:

6 **77.522 Sourcing. (1) GENERAL.** (a) In this section:

7 1. "Direct mail form" means a form for direct mail prescribed by the
8 department.

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

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

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

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

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

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

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

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

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

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

13 4. If the location of a sale of a product cannot be determined under subs. 1. to
14 3., the sale occurs at the purchaser's address as obtained during the consummation
15 of the sale, including the address indicated on the purchaser's payment instrument,
16 if no other address is available and if using that address is not in bad faith.

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

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

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

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

1 (c) The sale of direct mail occurs at the location from which the direct mail is
2 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
3 mail form, or other information that indicates the appropriate taxing jurisdiction to
4 which the direct mail is delivered to the ultimate recipients. If the purchaser
5 provides a direct mail form or direct pay permit to the seller, the purchaser shall pay
6 or remit, as appropriate, to the department the tax imposed under s. 77.53 on all
7 purchases for which the tax is due and the seller is relieved from liability for
8 collecting such tax or that satisfy the requirements under par. (e) or (f). A direct mail
9 form provided to a seller under this paragraph shall remain effective for all sales by
10 the seller who received the form to the purchaser who provided the form, unless the
11 purchaser revokes the form in writing and provides such revocation to the seller.

12 (2) LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regard
13 to the first or only payment on the lease or rental, the lease or rental of tangible
14 personal property occurs at the location determined under sub. (1) (b). If the property
15 is moved from the place where the property was initially delivered, the subsequent
16 periodic payments on the lease or rental occur at the property's primary location as
17 indicated by an address for the property that is provided by the lessee and that is
18 available to the lessor in records that the lessor maintains in the ordinary course of
19 the lessor's business, if the use of such an address does not constitute bad faith. The
20 location of a lease or rental as determined under this paragraph shall not be altered
21 by any intermittent use of the property at different locations.

22 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
23 that are not transportation equipment, occurs at the primary location of such motor
24 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property
25 that is provided by the lessee and that is available to the lessor in records that the

1 lessor maintains in the ordinary course of the lessor's business, if the use of such an
2 address does not constitute bad faith, except that a lease or rental under this
3 paragraph that requires only one payment occurs at the location determined under
4 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall
5 not be altered by any intermittent use of the property at different locations.

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

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

11 **(3) TELECOMMUNICATIONS.** (a) In this subsection:

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

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

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

20 4. "Customer" means a person who enters into a contract with a seller of
21 telecommunications services or, in any transaction for which the end user is not the
22 person who entered into a contract with the seller of telecommunications services,
23 the end user of the telecommunications services. "Customer" does not include a
24 person who resells telecommunications services or, for mobile telecommunications

1 services, a serving carrier under an agreement to serve a customer outside the home
2 service provider's licensed service area.

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

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

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

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

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

12 10. "Postpaid calling service" means a telecommunications service that is
13 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit
14 card, debit card, or similar method, or by charging it to a telephone number that is
15 not associated with the location where the telecommunications service originates or
16 terminates. "Postpaid calling service" includes a telecommunications service, not
17 including a prepaid wireless calling service, that would otherwise be a prepaid
18 calling service except that the service provided to the customer is not exclusively a
19 telecommunications service.

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

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

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

1 (b) Except as provided in pars. (d) to (j), the sale of a telecommunications service
2 that is sold on a call-by-call basis occurs in the taxing jurisdiction for sales and use
3 tax purposes where the call originates and terminates, in the case of a call that
4 originates and terminates in the same such jurisdiction, or the taxing jurisdiction for
5 sales and use tax purposes where the call originates or terminates and where the
6 service address is located.

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

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

13 (e) The sale of a postpaid calling service occurs at the location where the signal
14 of the telecommunications service originates, as first identified by the seller's
15 telecommunications system or, if the signal is not transmitted by the seller's
16 telecommunications system, by information that the seller received from the seller's
17 service provider.

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

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

4 2. The sale of a private communication service in which all customer channel
5 termination points are located entirely in one taxing jurisdiction for sales and use
6 tax purposes occurs in the taxing jurisdiction in which the customer channel
7 termination points are located.

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

12 4. If the segments are not charged separately, the sale of a private
13 communication service for segments of a communications channel that is located in
14 more than one taxing jurisdiction for sales and use tax purposes occurs in each such
15 jurisdiction in a percentage determined by dividing the number of customer channel
16 termination points in that jurisdiction by the number of customer channel
17 termination points in all jurisdictions where segments of the communications
18 channel are located.

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

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

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

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

6 (b) The sale of tangible personal property by a retail florist who takes an order
7 from a purchaser occurs at the location where the retail florist takes the order, if the
8 retail florist forwards the order to another retail florist who is at a location other than
9 the location of the florist who takes the order and who transfers the tangible personal
10 property to a person identified by the purchaser.

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

12 *-0728/6.166* SECTION 2318. 77.523 (title) of the statutes is repealed.

13 *-0728/6.167* SECTION 2319. 77.523 of the statutes is renumbered 77.59 (9p)

14 (a) and amended to read:

15 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116
16 to 126, as amended by P.L. 106-252, and if the customer believes that the amount
17 of the tax assessed for the service under this subchapter or the place of primary use
18 or taxing jurisdiction assigned to the service is erroneous, the customer may request
19 that the service provider correct the alleged error by sending a written notice to the
20 service provider. The notice shall include a description of the alleged error, the street
21 address for the customer's place of primary use of the service, the account name and
22 number of the service for which the customer seeks a correction, and any other
23 information that the service provider reasonably requires to process the request.
24 Within 60 days from the date that a service provider receives a request under this
25 section paragraph, the service provider shall review its records to determine the

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1 customer's taxing jurisdiction. If the review indicates that there is no error as
2 alleged, the service provider shall explain the findings of the review in writing to the
3 customer. If the review indicates that there is an error as alleged, the service
4 provider shall correct the error and shall refund or credit the amount of any tax
5 collected erroneously, along with the related interest, as a result of the error from the
6 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may
7 take no other action against the service provider, or commence any action, to correct
8 an alleged error in the amount of the tax assessed under this subchapter on a service
9 that is subject to 4 USC 116 to 126, as amended by P.L. 106-252, or to correct an
10 alleged error in the assigned place of primary use or taxing jurisdiction, unless the
11 customer has exhausted his or her remedies under this section paragraph.

12 ***-0728/6.168* SECTION 2320.** 77.524 (1) (a) of the statutes is renumbered
13 77.524 (1) (am).

14 ***-0728/6.169* SECTION 2321.** 77.524 (1) (ag) of the statutes is created to read:
15 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the
16 seller before the states that are signatories to the agreement, as defined in s. 77.65
17 (2) (a).

18 ***-0728/6.170* SECTION 2322.** 77.524 (1) (b) of the statutes is renumbered 77.51
19 (1g) and amended to read:

20 77.51 (1g) "Certified service provider" means an agent that is certified jointly
21 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and
22 that performs all of a seller's sales tax and use tax functions related to the seller's
23 retail sales, except that a certified service provider is not responsible for a retailer's
24 obligation to remit tax on the retailer's own purchases.

25 ***-0728/6.171* SECTION 2323.** 77.525 of the statutes is amended to read:

1 **77.525 Reduction to prevent double taxation.** Any person who is subject
2 to the tax under s. 77.52 (2) (a) 5. ~~a.~~ on telecommunications services that terminate
3 in this state and who has paid a similar tax on the same services to another state may
4 reduce the amount of the tax remitted to this state by an amount equal to the similar
5 tax properly paid to another state on those services or by the amount due this state
6 on those services, whichever is less. That person shall refund proportionally to the
7 persons to whom the tax under s. 77.52 (2) (a) 5. ~~a.~~ was passed on an amount equal
8 to the amounts not remitted.

9 *~~0728/6.172~~* **SECTION 2324.** 77.53 (1) of the statutes is amended to read:

10 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
11 on the use or consumption in this state of taxable services under s. 77.52 purchased
12 from any retailer, at the rate of 5% of the sales purchase price of those services; on
13 the storage, use or other consumption in this state of tangible personal property
14 purchased from any retailer, at the rate of 5% of the sales purchase price of that
15 property; on the storage, use, or other consumption of specified digital goods or
16 additional digital goods purchased from any retailer, regardless of whether the
17 purchaser has the right to permanently use such goods or whether the purchaser's
18 right to access or retain such goods is not permanent, at the rate of 5% of the sales
19 price of such goods; and on the storage, use or other consumption of tangible personal
20 property manufactured, processed or otherwise altered, in or outside this state, by
21 the person who stores, uses or consumes it, from material purchased from any
22 retailer, at the rate of 5% of the sales purchase price of that material.

23 *~~0728/6.173~~* **SECTION 2325.** 77.53 (2) of the statutes is amended to read:

24 77.53 (2) Every person storing, using, or otherwise consuming in this state
25 tangible personal property, specified digital goods, additional digital goods, or

1 taxable services purchased from a retailer is liable for the tax imposed by this section.

2 The person's liability is not extinguished until the tax has been paid to this state, but
3 a receipt with the tax separately stated from a retailer engaged in business in this
4 state or from a retailer who is authorized by the department, under such rules as it
5 prescribes, to collect the tax and who is regarded as a retailer engaged in business
6 in this state for purposes of the tax imposed by this section given to the purchaser
7 under sub. (3) relieves the purchaser from further liability for the tax to which the
8 receipt refers.

9 ***-0728/6.174* SECTION 2326.** 77.53 (3) of the statutes is amended to read:

10 **77.53 (3)** Every retailer engaged in business in this state and making sales of
11 tangible personal property, specified digital goods, additional digital goods, or
12 taxable services for delivery into this state or with knowledge directly or indirectly
13 that the property or service is intended for storage, use or other consumption in that
14 are sourced to this state under s. 77.522, shall, at the time of making the sales or, if
15 the storage, use or other consumption of the tangible personal property or taxable
16 service is not then taxable under this section, at the time the storage, use or other
17 consumption becomes taxable, collect the tax from the purchaser and give to the
18 purchaser a receipt in the manner and form prescribed by the department.

19 ***-0728/6.175* SECTION 2327.** 77.53 (4) of the statutes is repealed.

20 ***-0728/6.176* SECTION 2328.** 77.53 (9) of the statutes is amended to read:

21 **77.53 (9)** Every retailer selling tangible personal property, specified digital
22 goods, additional digital goods, or taxable services for storage, use or other
23 consumption in this state shall register with the department and obtain a certificate
24 under s. 73.03 (50) and give the name and address of all agents operating in this
25 state, the location of all distribution or sales houses or offices or other places of

1 business in this state, the standard industrial code classification of each place of
2 business in this state and the other information that the department requires. Any
3 person who may register under this subsection may designate an agent, as defined
4 in s. 77.524 (1) (ag), to register with the department under this subsection, in the
5 manner prescribed by the department.

6 ***-0728/6.177* SECTION 2329.** 77.53 (9m) of the statutes is renumbered 77.53
7 (9m) (a) and amended to read:

8 77.53 (9m) (a) Any person who is not otherwise required to collect any tax
9 imposed by this subchapter and who makes sales to persons within this state of
10 tangible personal property, specified digital goods, additional digital goods, or
11 taxable services the use of which is subject to tax under this subchapter may register
12 with the department under the terms and conditions that the department imposes
13 and shall obtain a valid certificate under s. 73.03 (50) and thereby be authorized and
14 required to collect, report, and remit to the department the use tax imposed by this
15 subchapter.

16 ***-0728/6.178* SECTION 2330.** 77.53 (9m) (b) of the statutes is created to read:

17 77.53 (9m) (b) Any person who may register under par. (a) may designate an
18 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
19 in the manner prescribed by the department.

20 ***-0728/6.179* SECTION 2331.** 77.53 (9m) (c) of the statutes is created to read:

21 77.53 (9m) (c) The registration under par. (a) by a person who is not otherwise
22 required to collect any tax imposed by this subchapter shall not be used as a factor
23 in determining whether the seller has nexus with this state for any tax at any time.

24 ***-0728/6.180* SECTION 2332.** 77.53 (10) of the statutes is amended to read:

1 77.53 (10) For the purpose of the proper administration of this section and to
2 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
3 tangible personal property, specified digital goods, additional digital goods, or
4 taxable services sold by any person for delivery in this state is sold for storage, use,
5 or other consumption in this state until the contrary is established. The burden of
6 proving the contrary is upon the person who makes the sale unless that person takes
7 from the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by
8 department, to the effect that the property, specified digital goods, additional digital
9 goods, or taxable service is purchased for resale, or otherwise exempt from the tax,
10 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are
11 sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required
12 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a
13 warehouse in or from which the commodity is deliverable on a contract for future
14 delivery subject to the rules of a commodity market regulated by the U.S. commodity
15 futures trading commission if upon the sale the commodity is not removed from the
16 warehouse the sale of tangible personal property, specified digital goods, additional
17 digital goods, and services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14),
18 (15), (17), (20n), (20p), (21), (22b), (22c), (30), (31), (32), (35), (36), (37), (42), (44), (45),
19 and (46), except as provided in s. 77.54 (30) (e) and (f).

20 ***-0728/6.181*** SECTION 2333. 77.53 (11) of the statutes is renumbered 77.53
21 (11) (a) and amended to read:

22 77.53 (11) (a) The certificate referred to in under sub. (10) relieves the person
23 selling the property, specified digital goods, additional digital goods, or service from
24 the burden of proof only if taken in good faith the seller obtains a fully completed
25 exemption certificate, or the information required to prove the exemption, from a

1 person who is engaged as a seller of tangible personal property or taxable services
2 and who holds the permit provided for by s. 77.52 (9) and who, at the time of
3 purchasing purchases no later than 90 days after the date of the sale of the tangible
4 personal property, specified digital goods, additional digital goods, or taxable service,
5 intends to sell it in the regular course of operations or is unable to ascertain at the
6 time of purchase whether the property or service will be sold or will be used for some
7 other purpose, or if taken in good faith from a person claiming exemption, except as
8 provided in par. (b). The certificate under sub. (10) shall not relieve the seller of the
9 burden of proof if the seller fraudulently fails to collect sales tax or solicits the
10 purchaser to claim an unlawful exemption, accepts an exemption certificate from a
11 purchaser who claims to be an entity that is not subject to the taxes imposed under
12 this subchapter, if the subject of the transaction sought to be covered by the
13 exemption certificate is received by the purchaser at a location operated by the seller
14 in this state and the exemption certificate clearly and affirmatively indicates that
15 the claimed exemption is not available in this state. The certificate shall be signed
16 by and bear the name and address of provide information that identifies the
17 purchaser and shall indicate the number of the permit issued to the purchaser, the
18 general character of tangible personal property or taxable service sold by the
19 purchaser and the basis for the claimed exemption and a paper certificate shall be
20 signed by the purchaser. The certificate shall be substantially in the form that the
21 department prescribes by rule.

22 *-0728/6.182* SECTION 2334. 77.53 (11) (b) of the statutes is created to read:

23 77.53 (11) (b) If the seller has not obtained a fully completed exemption
24 certificate or the information required to prove the exemption, as provided in par. (a),
25 the seller may, no later than 120 days after the department requests that the seller

1 substantiate the exemption, either provide proof of the exemption to the department
2 by other means or obtain, in good faith, a fully completed exemption certificate from
3 the purchaser.

4 ***-0728/6.183* SECTION 2335.** 77.53 (12) of the statutes is amended to read:

5 77.53 (12) If a purchaser who gives a certificate makes any storage or use of
6 the property, specified digital goods, additional digital goods, or service other than
7 retention, demonstration, or display while holding it for sale in the regular course
8 of operations as a seller, the storage or use is taxable as of the time the property,
9 specified digital goods, additional digital goods, or service is first so stored or used.

10 ***-0728/6.184* SECTION 2336.** 77.53 (14) of the statutes is amended to read:

11 77.53 (14) It is presumed that tangible personal property, specified digital
12 goods, additional digital goods, or taxable services shipped or brought to this state
13 by the purchaser were purchased from or serviced by a retailer.

14 ***-0728/6.185* SECTION 2337.** 77.53 (15) of the statutes is amended to read:

15 77.53 (15) It is presumed that tangible personal property, specified digital
16 goods, additional digital goods, or taxable services delivered outside this state to a
17 purchaser known by the retailer to be a resident of this state were purchased from
18 a retailer for storage, use, or other consumption in this state and stored, used, or
19 otherwise consumed in this state. This presumption may be controverted by a
20 written statement, signed by the purchaser or an authorized representative, and
21 retained by the seller that the property, digital good, or service was purchased for use
22 at a designated point outside this state. This presumption may also be controverted
23 by other evidence satisfactory to the department that the property, digital good, or
24 service was not purchased for storage, use, or other consumption in this state.

25 ***-0728/6.186* SECTION 2338.** 77.53 (16) of the statutes is amended to read:

1 77.53 (16) If the purchase, rental or lease of tangible personal property,
2 specified digital goods, additional digital goods, or service subject to the tax imposed
3 by this section was subject to a sales tax by another state in which the purchase was
4 made, the amount of sales tax paid the other state shall be applied as a credit against
5 and deducted from the tax, to the extent thereof, imposed by this section, except no
6 credit may be applied against and deducted from a sales tax paid on the purchase of
7 direct mail, if the direct mail purchaser did not provide to the seller a direct pay
8 permit, a direct mail form, or other information that indicates the appropriate taxing
9 jurisdiction to which the direct mail is delivered to the ultimate recipients. In this
10 subsection "sales tax" includes a use or excise tax imposed on the use of tangible
11 personal property, specified digital goods, additional digital goods, or taxable service
12 by the state in which the sale occurred and "state" includes the District of Columbia
13 but does not include and the commonwealth of Puerto Rico or but does not include
14 the several territories organized by congress.

15 *-0728/6.187* SECTION 2339. 77.53 (17) of the statutes is amended to read:

16 77.53 (17) This section does not apply to tangible personal property, specified
17 digital goods, or additional digital goods purchased outside this state, as determined
18 under s. 77.522, other than motor vehicles, boats, snowmobiles, mobile homes not
19 exceeding 45 feet in length, trailers, semitrailers, all-terrain vehicles and airplanes
20 registered or titled or required to be registered or titled in this state, which is brought
21 into this state by a nondomiciliary for the person's own storage, use or other
22 consumption while temporarily within this state when such property or digital good
23 is not stored, used or otherwise consumed in this state in the conduct of a trade,
24 occupation, business or profession or in the performance of personal services for
25 wages or fees.

SECTION 2340

1 *-0728/6.188* SECTION 2340. 77.53 (17m) of the statutes is amended to read:

2 77.53 (17m) This section does not apply to a boat purchased in a state
3 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
4 state if the boat is berthed in this state's boundary waters adjacent to the state of the
5 domicile of the purchaser and if the transaction was an exempt occasional sale under
6 the laws of the state in which the purchase was made.

7 *-0728/6.189* SECTION 2341. 77.53 (17r) (a) of the statutes is amended to read:

8 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

9 *-0728/6.190* SECTION 2342. 77.53 (18) of the statutes is amended to read:

10 77.53 (18) This section does not apply to the storage, use or other consumption
11 in this state of household goods, specified digital goods, or additional digital goods
12 for personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile homes,
13 trailers, semitrailers and all-terrain vehicles, for personal use, purchased by a
14 nondomiciliary of this state outside this state, as determined under s. 77.522, 90 days
15 or more before bringing the goods or property into this state in connection with a
16 change of domicile to this state.

17 *-0728/6.191* SECTION 2343. 77.54 (1) of the statutes is amended to read:

18 77.54 (1) The gross receipts sales price from the sale of and the storage, use or
19 other consumption in this state of tangible personal property and services the gross
20 receipts sales price from the sale of which, or the storage, use or other consumption
21 of which, this state is prohibited from taxing under the constitution or laws of the
22 United States or under the constitution of this state.

23 *-0728/6.192* SECTION 2344. 77.54 (2) of the statutes is amended to read:

24 77.54 (2) The gross receipts sales price from sales of and the storage, use or
25 other consumption of tangible personal property becoming an ingredient or

1 component part of an article of tangible personal property or which is consumed or
2 destroyed or loses its identity in the manufacture of tangible personal property in
3 any form destined for sale, except as provided in sub. (30) (a) 6.

4 ***-0728/6.193* SECTION 2345.** 77.54 (2m) of the statutes is amended to read:

5 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
6 or other consumption of tangible personal property or services that become an
7 ingredient or component of shoppers guides, newspapers or periodicals or that are
8 consumed or lose their identity in the manufacture of shoppers guides, newspapers
9 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
10 transferred without charge to the recipient. In this subsection, "shoppers guides",
11 "newspapers" and "periodicals" have the meanings under sub. (15). The exemption
12 under this subdivision does not apply to advertising supplements that are not
13 newspapers.

14 ***-0728/6.194* SECTION 2346.** 77.54 (3) (a) of the statutes, as affected by 2005
15 Wisconsin Act 366, is amended to read:

16 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,
17 or other consumption of tractors and machines, including accessories, attachments,
18 and parts, lubricants, nonpowered equipment, and other tangible personal property
19 that are used exclusively and directly, or are consumed or lose their identities, in the
20 business of farming, including dairy farming, agriculture, horticulture, floriculture,
21 silviculture, and custom farming services, but excluding automobiles, trucks, and
22 other motor vehicles for highway use; excluding personal property that is attached
23 to, fastened to, connected to, or built into real property or that becomes an addition
24 to, component of, or capital improvement of real property; and excluding tangible
25 personal property used or consumed in the erection of buildings or in the alteration,

1 repair or improvement of real property, regardless of any contribution that that
2 personal property makes to the production process in that building or real property
3 and regardless of the extent to which that personal property functions as a machine,
4 except as provided in par. (c).

5 ***-0728/6.195* SECTION 2347.** 77.54 (3m) (intro.) of the statutes, as affected by
6 2005 Wisconsin Act 366, is amended to read:

7 77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the
8 storage, use or other consumption of the following items if they are used exclusively
9 by the purchaser or user in the business of farming; including dairy farming,
10 agriculture, horticulture, floriculture, silviculture, and custom farming services:

11 ***-0728/6.196* SECTION 2348.** 77.54 (4) of the statutes is amended to read:

12 77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal
13 property, and the storage, use or other consumption in this state of tangible personal
14 property which is the subject of any such sale, by any elementary school or secondary
15 school, exempted as such from payment of income or franchise tax under ch. 71,
16 whether public or private.

17 ***-0728/6.197* SECTION 2349.** 77.54 (5) (intro.) of the statutes is amended to
18 read:

19 77.54 (5) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
20 use or other consumption of:

21 ***-0728/6.198* SECTION 2350.** 77.54 (6) (intro.) of the statutes is amended to
22 read:

23 77.54 (6) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
24 use or other consumption of:

25 ***-0728/6.199* SECTION 2351.** 77.54 (7m) of the statutes is amended to read:

1 77.54 (7m) Occasional sales of tangible personal property or services, including
2 admissions or tickets to an event; by a neighborhood association, church, civic group,
3 garden club, social club or similar nonprofit organization; not involving
4 entertainment for which payment in the aggregate exceeds \$500 for performing or
5 as reimbursement of expenses unless access to the event may be obtained without
6 payment of a direct or indirect admission fee; conducted by the organization if the
7 organization is not engaged in a trade or business and is not required to have a
8 seller's permit. For purposes of this subsection, an organization is engaged in a trade
9 or business and is required to have a seller's permit if its sales of tangible personal
10 property and services, not including sales of tickets to events, and its events occur
11 on more than 20 days during the year, unless its receipts do not exceed \$25,000
12 during the year. The exemption under this subsection does not apply to gross receipts
13 the sales price from the sale of bingo supplies to players or to the sale, rental or use
14 of regular bingo cards, extra regular cards and special bingo cards.

15 *-0728/6.200* SECTION 2352. 77.54 (8) of the statutes is amended to read:

16 77.54 (8) Charges for interest, financing or insurance, not including contracts
17 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the
18 invoice given by the seller to the purchaser.

19 *-0728/6.201* SECTION 2353. 77.54 (9) of the statutes is amended to read:

20 77.54 (9) The gross receipts sales price from sales of tickets or admissions to
21 public and private elementary and secondary school activities, where the entire net
22 proceeds therefrom are expended for educational, religious or charitable purposes.

23 *-0728/6.202* SECTION 2354. 77.54 (9a) (intro.) of the statutes is amended to
24 read:

1 77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
2 by, use by or other consumption of tangible personal property and taxable services
3 by:

4 ***-1272/5.30* SECTION 2355.** 77.54 (9a) (a) of the statutes is amended to read:

5 77.54 (9a) (a) This state or any agency thereof, the University of Wisconsin
6 Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health
7 Insurance Risk-Sharing Plan Authority, the Healthy Wisconsin Authority, and the
8 Fox River Navigational System Authority.

9 ***-0728/6.203* SECTION 2356.** 77.54 (10) of the statutes is amended to read:

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

14 ***-0728/6.204* SECTION 2357.** 77.54 (11) of the statutes is amended to read:

15 77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use
16 or other consumption in this state of motor vehicle fuel, general aviation fuel or
17 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or
18 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel
19 in operating a motor vehicle upon the public highways.

20 ***-0728/6.205* SECTION 2358.** 77.54 (12) of the statutes is amended to read:

21 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
22 or other consumption in this state of rail freight or passenger cars, locomotives or
23 other rolling stock used in railroad operations, or accessories, attachments, parts,
24 lubricants or fuel therefor.

25 ***-0728/6.206* SECTION 2359.** 77.54 (13) of the statutes is amended to read:

1 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption in this state of commercial vessels and barges of 50-ton burden
3 or over primarily engaged in interstate or foreign commerce or commercial fishing,
4 and the accessories, attachments, parts and fuel therefor.

5 ***-0728/6.207*** SECTION 2360. 77.54 (14) (intro.) of the statutes is amended to
6 read:

7 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
8 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
9 the following:

10 ***-0728/6.208*** SECTION 2361. 77.54 (14) (a) of the statutes is amended to read:

11 77.54 (14) (a) Prescribed for the treatment of a human being by a person
12 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
13 a registered pharmacist in accordance with law.

14 ***-0728/6.209*** SECTION 2362. 77.54 (14) (b) of the statutes is amended to read:

15 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
16 to a patient who is a human being for treatment of the patient.

17 ***-0728/6.210*** SECTION 2363. 77.54 (14) (f) (intro.) of the statutes is amended
18 to read:

19 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the
20 ~~medicine~~ drug may not be dispensed without a prescription:

21 ***-0728/6.211*** SECTION 2364. 77.54 (14g) of the statutes is repealed.

22 ***-0728/6.212*** SECTION 2365. 77.54 (14s) of the statutes is repealed.

23 ***-0728/6.213*** SECTION 2366. 77.54 (15) of the statutes is amended to read:

24 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use
25 or other consumption of all newspapers, of periodicals sold by subscription and

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1 regularly issued at average intervals not exceeding 3 months, or issued at average
2 intervals not exceeding 6 months by an educational association or corporation sales
3 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
4 commercial publishers for distribution without charge or mainly without charge or
5 regularly distributed by or on behalf of publishers without charge or mainly without
6 charge to the recipient and of shoppers guides which distribute no less than 48 issues
7 in a 12-month period. In this subsection, "shoppers guide" means a community
8 publication delivered, or attempted to be delivered, to most of the households in its
9 coverage area without a required subscription fee, which advertises a broad range
10 of products and services offered by several types of businesses and individuals. In
11 this subsection, "controlled circulation publication" means a publication that has at
12 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
13 not more than 75% of its pages to advertising and that is not conducted as an
14 auxiliary to, and essentially for the advancement of, the main business or calling of
15 the person that owns and controls it.

16 ***-0728/6.214* SECTION 2367.** 77.54 (16) of the statutes is amended to read:

17 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
18 or other consumption of fire trucks and fire fighting equipment, including
19 accessories, attachments, parts and supplies therefor, sold to volunteer fire
20 departments.

21 ***-0728/6.215* SECTION 2368.** 77.54 (17) of the statutes is amended to read:

22 77.54 (17) The ~~gross receipts~~ sales price from the sales of and the storage, use
23 or other consumption of water, that is not food and food ingredient, when delivered
24 through mains.

25 ***-0728/6.216* SECTION 2369.** 77.54 (18) of the statutes is amended to read:

1 77.54 (18) When the sale, lease or rental of a service or property that was
2 previously exempt or not taxable under this subchapter becomes taxable, and the
3 service or property is furnished under a written contract by which the seller is
4 unconditionally obligated to provide the service or property for the amount fixed
5 under the contract, the seller is exempt from sales or use tax on the ~~gross receipts~~
6 sales price for services or property provided until the contract is terminated,
7 extended, renewed or modified. However, from the time the service or property
8 becomes taxable until the contract is terminated, extended, renewed or modified the
9 user is subject to use tax, measured by the sales purchase price, on the service or
10 property purchased under the contract.

11 *~~0728/6.217~~* SECTION 2370. 77.54 (20) of the statutes is repealed.

12 *~~0728/6.218~~* SECTION 2371. 77.54 (20m) of the statutes is repealed.

13 *~~0728/6.219~~* SECTION 2372. 77.54 (20n) of the statutes is created to read:

14 77.54 (20n) (a) The sales price from the sale of and the storage, use, or other
15 consumption of food and food ingredients, except candy, soft drinks, dietary
16 supplements, and prepared food.

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

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

5 1. An undergraduate student, a graduate student, or a student enrolled in a
6 professional school if the student is enrolled for credit at the public or private
7 institution of higher education and if the food and food ingredients are consumed by
8 the student.

9 2. A national football league team.

10 *-0728/6.220* SECTION 2373. 77.54 (20p) of the statutes is created to read:

11 77.54 (20p) The sales price from the sale of and the storage, use, or other
12 consumption of taxable and exempt food and food ingredients that are packaged
13 together if 50 percent or more of the sales price of the items packaged together is
14 attributable to food and food ingredients that are exempt from the taxes imposed
15 under this subchapter. If more than 50 percent of the sales price is attributable to
16 items that are subject to the taxes imposed under this subchapter, the entire sales
17 price is subject to the taxes imposed under this subchapter, regardless of any
18 exemption under this section that otherwise applies to the remaining items.

19 *-0728/6.221* SECTION 2374. 77.54 (20r) of the statutes is created to read:

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

25 *-0728/6.222* SECTION 2375. 77.54 (21) of the statutes is amended to read:

1 77.54 (21) The ~~gross receipts~~ sales price from the sales of and the storage, use
2 or other consumption of caskets and burial vaults for human remains.

3 ***-0728/6.223* SECTION 2376.** 77.54 (22) of the statutes is repealed.

4 ***-0728/6.224* SECTION 2377.** 77.54 (22b) of the statutes is created to read:

5 77.54 (22b) The sales price from the sale of and the storage, use, or other
6 consumption of durable medical equipment that is for use in a person's home,
7 mobility-enhancing equipment, and prosthetic devices, and accessories for such
8 equipment or devices, if the equipment or devices are used for a human being.

9 ***-0728/6.225* SECTION 2378.** 77.54 (22c) of the statutes is created to read:

10 77.54 (22c) The sales price from the sale of and the storage, use, or other
11 consumption of tangible personal property that is subject to the taxes imposed under
12 this subchapter and items described under sub. (22b), if such property and items are
13 packaged together and if 50 percent or more of the sales price of the property and
14 items packaged together is attributable to the items described under sub. (22b). If
15 more than 50 percent of the sales price is attributable to tangible personal property
16 that is subject to the taxes imposed under this subchapter, the entire sales price is
17 subject to the taxes imposed under this subchapter, regardless of the exemption
18 under sub. (22b).

19 ***-1274/4.1* SECTION 2379.** 77.54 (23m) of the statutes is amended to read:

20 77.54 (23m) The gross receipts from the sale, lease or rental of or the storage,
21 use or other consumption of motion picture film or tape, and motion pictures or radio
22 or television programs for listening, viewing, or broadcast, and advertising materials
23 related thereto, sold, leased or rented to a motion picture theater or radio or
24 television station.

1 ***-0728/6.226* SECTION 2380.** 77.54 (23m) of the statutes, as affected by 2007
2 Wisconsin Act (this act), is amended to read:

3 **77.54 (23m)** The ~~gross receipts~~ sales price from the sale, lease or rental of or
4 the storage, use or other consumption of motion picture film or tape, and motion
5 pictures or radio or television programs for listening, viewing, or broadcast, and
6 advertising materials related thereto, sold, leased or rented to a motion picture
7 theater or radio or television station.

8 ***-0728/6.227* SECTION 2381.** 77.54 (25) of the statutes is amended to read:

9 **77.54 (25)** The ~~gross receipts~~ sales price from the sale of and the storage of
10 printed material which is designed to advertise and promote the sale of merchandise,
11 or to advertise the services of individual business firms, which printed material is
12 purchased and stored for the purpose of subsequently transporting it outside the
13 state by the purchaser for use thereafter solely outside the state.

14 ***-1823/2.3* SECTION 2382.** 77.54 (25) of the statutes, as affected by 2007
15 Wisconsin Act (this act), is amended to read:

16 **77.54 (25)** The sales price from the sale of and the storage of printed material
17 which is designed to advertise and promote the sale of merchandise, or to advertise
18 the services of individual business firms, which printed material is purchased and
19 stored for the purpose of subsequently transporting it outside the state by the
20 purchaser for use thereafter solely outside the state. This subsection does not apply
21 to catalogs and the envelopes in which the catalogs are mailed.

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

***-1823/2.4* SECTION 2383.** 77.54 (25m) of the statutes is created to read:

1 77.54 (25m) The sales price from the sale of and the storage, use, or other
2 consumption of catalogs, and the envelopes in which the catalogs are mailed, that are
3 designed to advertise and promote the sale of merchandise or to advertise the
4 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.

5 *-0728/6.228* SECTION 2384. 77.54 (26) of the statutes is amended to read:

6 77.54 (26) The gross receipts sales price from the sales of and the storage, use,
7 or other consumption of tangible personal property which becomes a component part
8 of an industrial waste treatment facility that is exempt under s. 70.11 (21) (a) or that
9 would be exempt under s. 70.11 (21) (a) if the property were taxable under ch. 70, or
10 tangible personal property which becomes a component part of a waste treatment
11 facility of this state or any agency thereof, or any political subdivision of the state or
12 agency thereof as provided in s. 40.02 (28). The exemption includes replacement
13 parts therefor, and also applies to chemicals and supplies used or consumed in
14 operating a waste treatment facility and to purchases of tangible personal property
15 made by construction contractors who transfer such property to their customers in
16 fulfillment of a real property construction activity. This exemption does not apply
17 to tangible personal property installed in fulfillment of a written construction
18 contract entered into, or a formal written bid made, prior to July 31, 1975.

19 *-0728/6.229* SECTION 2385. 77.54 (26m) of the statutes is amended to read:

20 77.54 (26m) The gross receipts sales price from the sale of and the storage, use
21 or other consumption of waste reduction or recycling machinery and equipment,
22 including parts therefor, exclusively and directly used for waste reduction or
23 recycling activities which reduce the amount of solid waste generated, reuse solid

SECTION 2385

1 waste, recycle solid waste, compost solid waste or recover energy from solid waste.
2 The exemption applies even though an economically useful end product results from
3 the use of the machinery and equipment. For the purposes of this subsection, "solid
4 waste" means garbage, refuse, sludge or other materials or articles, whether these
5 materials or articles are discarded or purchased, including solid, semisolid, liquid or
6 contained gaseous materials or articles resulting from industrial, commercial,
7 mining or agricultural operations or from domestic use or from public service
8 activities.

9 ***-0728/6.230* SECTION 2386.** 77.54 (27) of the statutes is amended to read:
10 77.54 (27) The ~~gross receipts~~ sales price from the sale of semen used for
11 artificial insemination of livestock.

12 ***-0728/6.231* SECTION 2387.** 77.54 (28) of the statutes is amended to read:
13 77.54 (28) The ~~gross receipts~~ sales price from the sale of and the storage, use
14 or other consumption to or by the ultimate consumer of apparatus or equipment for
15 the injection of insulin or the treatment of diabetes and supplies used to determine
16 blood sugar level.

17 ***-0728/6.232* SECTION 2388.** 77.54 (29) of the statutes is amended to read:
18 77.54 (29) The ~~gross receipts~~ sales price from the sales of and the storage, use
19 or other consumption of equipment used in the production of maple syrup.

20 ***-0728/6.233* SECTION 2389.** 77.54 (30) (a) (intro.) of the statutes is amended
21 to read:

22 77.54 (30) (a) (intro.) The ~~gross receipts~~ sales price from the sale of:

23 ***-0728/6.234* SECTION 2390.** 77.54 (30) (c) of the statutes is amended to read:

24 77.54 (30) (c) If fuel or electricity is sold partly for a use exempt under this
25 subsection and partly for a use which is not exempt under this subsection, no tax

1 shall be collected on that percentage of the ~~gross receipts~~ sales price equal to the
2 percentage of the fuel or electricity which is used for an exempt use, as specified in
3 an exemption certificate provided by the purchaser to the seller.

4 ***-0728/6.235* SECTION 2391.** 77.54 (31) of the statutes is amended to read:

5 77.54 (31) The ~~gross receipts~~ sales price from the sale of and the storage, use
6 or other consumption in this state, but not the lease or rental, of used mobile homes
7 that are primary housing units under s. 340.01 (29).

8 ***-0728/6.236* SECTION 2392.** 77.54 (32) of the statutes is amended to read:

9 77.54 (32) The ~~gross receipts~~ sales price from charges, including charges for a
10 search, imposed by an authority, as defined in s. 19.32 (1), for copies of a public record
11 that a person may examine and use under s. 16.61 (12) or for copies of a record under
12 s. 19.35 (1).

13 ***-0728/6.237* SECTION 2393.** 77.54 (33) of the statutes is amended to read:

14 77.54 (33) The ~~gross receipts~~ sales price from sales of and the storage, use or
15 other consumption of ~~medicines~~ drugs used on farm livestock, not including
16 workstock.

17 ***-0728/6.238* SECTION 2394.** 77.54 (35) of the statutes is amended to read:

18 77.54 (35) The ~~gross receipts~~ sales price from the sales of tangible personal
19 property, tickets or admissions by any baseball team affiliated with the Wisconsin
20 Department of American Legion baseball.

21 ***-0728/6.239* SECTION 2395.** 77.54 (36) of the statutes is amended to read:

22 77.54 (36) The ~~gross receipts~~ sales price from the rental for a continuous period
23 of one month or more of a mobile home, as defined in s. 66.0435 (1) (d), that is used
24 as a residence. In this subsection, "one month" means a calendar month or 30 days,

1 whichever is less, counting the first day of the rental and not counting the last day
2 of the rental.

3 ***-0728/6.240* SECTION 2396.** 77.54 (37) of the statutes is amended to read:

4 77.54 (37) The ~~gross receipts~~ sales price from revenues collected under s.
5 146.70 (3) and the surcharge established by rule by the public service commission
6 under s. 146.70 (3m) (f) for customers of wireless providers, as defined in s. 146.70
7 (3m) (a) 6.

8 ***-0728/6.241* SECTION 2397.** 77.54 (38) of the statutes is amended to read:

9 77.54 (38) The ~~gross receipts~~ sales price from the sale of and the storage, use
10 or other consumption of snowmobile trail groomers and attachments for them that
11 are purchased, stored, used or consumed by a snowmobile club that meets at least
12 3 times a year, that has at least 10 members, that promotes snowmobiling and that
13 participates in the department of natural resources' snowmobile program under s.
14 350.12 (4) (b).

15 ***-0728/6.242* SECTION 2398.** 77.54 (39) of the statutes is amended to read:

16 77.54 (39) The ~~gross receipts~~ sales price from the sale of and the storage, use
17 or other consumption of off-highway, heavy mechanical equipment such as feller
18 bunchers, slashers, delimiters, chippers, hydraulic loaders, loaders,
19 skidder-forwarders, skidders, timber wagons and tractors used exclusively and
20 directly in the harvesting or processing of raw timber products in the field by a person
21 in the logging business. In this subsection, "heavy mechanical equipment" does not
22 include hand tools such as axes, chains, chain saws and wedges.

23 ***-0728/6.243* SECTION 2399.** 77.54 (40) of the statutes is repealed.

24 ***-0728/6.244* SECTION 2400.** 77.54 (41) of the statutes is amended to read:

1 77.54 (41) The gross receipts sales price from the sale of building materials,
2 supplies and equipment to; and the storage, use or other consumption of those kinds
3 of property by; owners, contractors, subcontractors or builders if that property is
4 acquired solely for or used solely in, the construction, renovation or development of
5 property that would be exempt under s. 70.11 (36).

6 ***-0728/6.245* SECTION 2401.** 77.54 (42) of the statutes is amended to read:

7 77.54 (42) The gross receipts sales price from the sale of and the storage, use
8 or other consumption of animal identification tags provided under s. 93.06 (1h) and
9 standard samples provided under s. 93.06 (1s).

10 ***-0728/6.246* SECTION 2402.** 77.54 (43) of the statutes is amended to read:

11 77.54 (43) The gross receipts sales price from the sale of and the storage, use
12 or other consumption of raw materials used for the processing, fabricating or
13 manufacturing of, or the attaching to or incorporating into, printed materials that
14 are transported and used solely outside this state.

15 ***-0728/6.247* SECTION 2403.** 77.54 (44) of the statutes, as affected by 2005
16 Wisconsin Act 141, is amended to read:

17 77.54 (44) The gross receipts sales price from the collection of low-income
18 assistance fees that are charged under s. 16.957 (4) (a) or (5) (a).

19 ***-0728/6.248* SECTION 2404.** 77.54 (45) of the statutes is amended to read:

20 77.54 (45) The gross receipts sales price from the sale of and the use or other
21 consumption of a onetime license or similar right to purchase admission to
22 professional football games at a football stadium, as defined in s. 229.821 (6), that
23 is granted by a municipality; a local professional football stadium district; or a
24 professional football team or related party, as defined in s. 229.821 (12); if the person
25 who buys the license or right is entitled, at the time the license or right is transferred

1 to the person, to purchase admission to at least 3 professional football games in this
2 state during one football season.

3 ***-0728/6.249* SECTION 2405.** 77.54 (46) of the statutes is amended to read:

4 77.54 (46) The ~~gross receipts~~ sales price from the sale of and the storage, use,
5 or other consumption of the U.S. flag or the state flag. This subsection does not apply
6 to a representation of the U.S. flag or the state flag.

7 ***-0728/6.250* SECTION 2406.** 77.54 (46m) of the statutes is amended to read:

8 77.54 (46m) The ~~gross receipts~~ sales price from the sale of and the storage, use,
9 or other consumption of telecommunications services, if the telecommunications
10 services are obtained by using the rights to purchase telecommunications services,
11 including purchasing reauthorization numbers, by paying in advance and by using
12 an access number and authorization code; and if the tax imposed under s. 77.52 or
13 77.53 was previously paid on the sale or purchase of such rights.

14 ***-0728/6.251* SECTION 2407.** 77.54 (47) (intro.) of the statutes is amended to
15 read:

16 77.54 (47) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
17 use, or other consumption of all of the following:

18 ***-0728/6.252* SECTION 2408.** 77.54 (47) (b) 1. and 2. of the statutes are
19 amended to read:

20 77.54 (47) (b) 1. The shooting facility is required to pay the tax imposed under
21 s. 77.52 on its ~~gross receipts~~ the sales price from charges for shooting at the facility.

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

1 ***-0728/6.253* SECTION 2409.** 77.54 (48) (a) of the statutes is renumbered
2 77.585 (9) (a) and amended to read:

3 77.585 (9) (a) Subject to 2005 Wisconsin Act 479, section 17, the gross receipts
4 ~~from the sale of and the storage, use, or other consumption~~ a purchaser may claim
5 as a deduction that portion of its purchase price of Internet equipment used in the
6 broadband market for which the tax was imposed under this subchapter, if the
7 purchaser certifies to the department of commerce, in the manner prescribed by the
8 department of commerce, that the purchaser will, within 24 months after July 1,
9 2007, make an investment that is reasonably calculated to increase broadband
10 Internet availability in this state. The purchaser shall claim the deduction in the
11 same reporting period as the purchaser paid the tax imposed under this subchapter.

12 ***-0728/6.254* SECTION 2410.** 77.54 (48) (b) of the statutes is renumbered
13 77.585 (9) (b).

14 ***-0728/6.255* SECTION 2411.** 77.54 (49) of the statutes is amended to read:

15 77.54 (49) The ~~gross receipts~~ sales price from the sale of and the storage, use,
16 or other consumption of taxable services and tangible personal property that is
17 physically transferred to the purchaser as a necessary part of services that are
18 subject to the taxes imposed under s. 77.52 (2) (a) 7., 10., 11., and 20., if the seller and
19 the purchaser of such services and property are members of the same affiliated group
20 under section 1504 of the Internal Revenue Code and are eligible to file a single
21 consolidated return for federal income tax purposes. For purposes of this subsection,
22 if a seller purchases a taxable service or tangible personal property, as described in
23 the subsection, that is subsequently sold to a member of the seller's affiliated group
24 and the sale is exempt under this subsection from the taxes imposed under this

1 subchapter, the original purchase of the taxable service or tangible personal property
2 by the seller is not considered a sale for resale or exempt under this subsection.

3 ***-0728/6.256* SECTION 2412.** 77.54 (50) of the statutes is created to read:

4 **77.54 (50)** The sales price from the sale of and the storage, use, or other
5 consumption of specified digital goods or additional digital goods that are transferred
6 electronically to the purchaser, if the sale of and the storage, use, or other
7 consumption of such goods sold in a tangible form is exempt from taxation under this
8 subchapter.

9 ***-0728/6.257* SECTION 2413.** 77.54 (51) of the statutes is created to read:

10 **77.54 (51)** The sales price from the sales of and the storage, use, or other
11 consumption of products sold in a transaction that would be a bundled transaction,
12 except that it contains taxable and nontaxable products as described in s. 77.51 (1f)
13 (d), and except that the first person combining the products shall pay the tax imposed
14 under this subchapter on the person's purchase price of the taxable items.

15 ***-0728/6.258* SECTION 2414.** 77.54 (52) of the statutes is created to read:

16 **77.54 (52)** The sales price from the sales of and the storage, use, or other
17 consumption of products sold in a transaction that would be a bundled transaction,
18 except that the transaction meets the conditions described in s. 77.51 (1f) (e).

19 ***-0725/3.3* SECTION 2415.** 77.54 (53) of the statutes is created to read:

20 **77.54 (53) (a)** In this subsection:

- 21 1. "Animals" include bacteria, viruses, and other microorganisms.
- 22 2. "Manufacturing" has the meaning given in sub. (6m).
- 23 3. "Qualified research" means qualified research as defined under section 41

24 (d) (1) of the Internal Revenue Code, except that research conducted by a public or
25 private institution of higher education or by a governmental unit is "qualified

1 research” if applying the research is intended to be useful in developing a new or
2 improved product or service and the research satisfies section 41 (d) (1) (B) (i) and
3 (C) of the Internal Revenue Code.

4 (b) The gross receipts from the sale of and the storage, use, or other
5 consumption of:

6 1. Machines and specific processing equipment, including accessories,
7 attachments, and parts for the machines or equipment, that are used exclusively and
8 directly in raising animals that are sold primarily to a biotechnology business, a
9 public or private institution of higher education, or a governmental unit for exclusive
10 and direct use by any such entity in qualified research or manufacturing.

11 2. The items listed in sub. (3m) (a) to (m), medicines, semen for artificial
12 insemination, fuel, and electricity that are used exclusively and directly in raising
13 animals that are sold primarily to a biotechnology business, a public or private
14 institution of higher education, or a governmental unit for exclusive and direct use
15 by any such entity in qualified research or manufacturing.

16 3. Machines and specific processing equipment, including accessories,
17 attachments, and parts for the machines or equipment, that are sold to a
18 biotechnology business and used exclusively and directly in qualified research in
19 biotechnology.

20 4. Tangible personal property that is sold to a biotechnology business, if the
21 property is consumed or destroyed or loses its identity while being used exclusively
22 and directly in qualified research in biotechnology.

23 5. Animals that are sold to a biotechnology business and used exclusively and
24 directly in qualified research in biotechnology.

1 (c) A person who claims an exemption under par. (b) 1. and 2. shall obtain
2 written documentation from the person's customers related to each customer's use
3 of animals, including the percentage of animals sold to the customer that are used
4 exclusively and directly in qualified research.

5 (d) The department shall publish on the department's Internet site a list of all
6 biotechnology businesses certified by the department.

7 ***-0725/3.3*SECTION 2416.** 77.54 (53) (b) (intro.) of the statutes, as created by
8 2007 Wisconsin Act (this act), is repealed and recreated to read:

9 77.54 (53) (b) (intro.) The sales price from the sale of and the storage, use, or
10 other consumption of:

11 ***-0417/2.1* SECTION 2417.** 77.54 (54) of the statutes is created to read:
12 77.54 (54) The gross receipts from the sale of and the storage, use, or other
13 consumption of tangible personal property and taxable services that are sold by a
14 home exchange service that receives moneys from the appropriation account under
15 s. 20.485 (1) (g) and is operated by the department of veterans affairs.

16 ***-0417/2.1*SECTION 2418.** 77.54 (54) of the statutes, as created by 2007
17 Wisconsin Act (this act), is repealed and recreated to read:

18 77.54 (54) The sales price from the sale of and the storage, use, or other
19 consumption of tangible personal property and taxable services that are sold by a
20 home exchange service that receives moneys from the appropriation account under
21 s. 20.485 (1) (g) and is operated by the department of veterans affairs.

22 ***-1765/1.1* SECTION 2419.** 77.54 (55) of the statutes is created to read:
23 77.54 (55) The sales price from the sales of tickets or admissions to a
24 performance by a nonprofit performing arts organization, if the organization also
25 provides free performances for schools.

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