

**2013 DRAFTING REQUEST**

**Bill**

Received: 11/8/2012 Received By: jkreye  
Wanted: As time permits Same as LRB:  
For: Administration-Budget By/Representing: Ley  
May Contact: Drafter: jkreye  
Subject: Tax, Other - sales Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email:  
Carbon copy (CC) to:

---

**Pre Topic:**

DOA:.....Ley, BB0225 -

---

**Topic:**

Lump sum contract sales tax exemption

---

**Instructions:**

See attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 11/9/2012	scalvin 11/9/2012		_____			
/P1			rschluet 11/9/2012	_____	lparisi 11/9/2012		State S&L Tax

FE Sent For:

<END>

2013 DRAFTING REQUEST

Bill

Received: 11/8/2012 Received By: jkreye  
 Wanted: As time permits Same as LRB:  
 For: Administration-Budget By/Representing: Ley  
 May Contact: Drafter: jkreye  
 Subject: Tax, Other - sales Addl. Drafters:  
 Extra Copies:

Submit via email: YES  
 Requester's email:  
 Carbon copy (CC) to:

Pre Topic:

DOA:.....Ley, BB0225 -

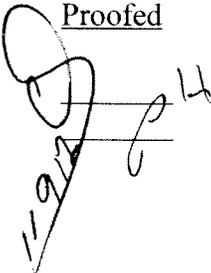
Topic:

Lump sum contract sales tax exemption

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	jkreye	1/PI SAC 11/9/12	1/PI SAC 11/09/12				

FE Sent For:

<END>

**Kreye, Joseph**

5/6

**From:** Hanaman, Cathlene  
**Sent:** Thursday, November 08, 2012 2:59 PM  
**To:** Kreye, Joseph  
**Subject:** FW: Statutory Language Drafting Request - BB0225  
**Attachments:** Lump Sum Sales Tax Exemption.pdf

**From:** [Emily.Ley@wisconsin.gov](mailto:Emily.Ley@wisconsin.gov) [mailto:[Emily.Ley@wisconsin.gov](mailto:Emily.Ley@wisconsin.gov)]  
**Sent:** Thursday, November 08, 2012 2:56 PM  
**To:** Hanaman, Cathlene  
**Cc:** Thornton, Scott - DOA; Frederick, Caitlin - DOA; Ley, Emily A - DOA  
**Subject:** Statutory Language Drafting Request - BB0225

**Biennial Budget:** 2013-15

**Topic:** Lump Sum Sales Tax Exemption

**Tracking Code:** BB0225

**SBO Team:** TLGED

**SBO Analyst:** Ley, Emily - DOA  
**Phone:** 608-266-7597  
**E-mail:** [Emily.Ley@wisconsin.gov](mailto:Emily.Ley@wisconsin.gov)

**Agency Acronym:** DOR

**Agency Number:** 566

**Priority:** Medium

**Intent:** Provide a sales and use tax exemption for tangible personal property and taxable services sold by a contractor as part of a lump sum contract if the total sales price of the taxable items is less than 10% of the total amount of the contract, regardless of whether the amounts charged for labor and services are listed separately from the amount received for the tangible personal property. Under these conditions, the contractor is considered the consumer of the taxable products and must pay the sales and use tax on those items.

The proposal is consistent with 2011 Assembly Bill 381 as amended by AA 1 to ASA 1.

**Attachments:** True

Please send completed drafts to [statlanguage@wisapps.wi.gov](mailto:statlanguage@wisapps.wi.gov)

**TITLE: SALES TAX - LUMP SUM CONTRACTS**

**DESCRIPTION OF CURRENT LAW**

The current law treatment for the sale of tangible personal property and taxable services by contractors as part of a lump sum contract is dependent on the amount of taxable products sold to a customer and whether the contractor provides a list price for the taxable products to the customer.

Under current law, contractors' sales of personal property and taxable services (e.g., a stove and installation charges) may be taxable even if the sale is included within a real property construction contract. If a contractor includes taxable products that are minor in relation to a lump sum contract (less than 10% of the total contract) and no separate charge is made in any document provided to the customer, the cost to the contractor of the taxable products shall be used as the sales price subject to sales tax. If a separate charge is made for any of the taxable products, or the taxable products are more than 10% of the lump sum contract, the separate charge to the customer is subject to the sales tax.

**RECOMMENDATION FOR ACTION**

For contracts where the taxable products are less than 10% of the total contract, ~~create a sales and use tax exemption for tangible personal property and taxable services that are sold as part of a lump sum contract regardless of whether the amounts charged for labor and services are listed separately from the amount received for the tangible personal property.~~ Sales tax for these products would still be imposed on the contractor's purchase of tangible personal property sold as part of a lump-sum contract.

**IMPACT ON JOB CREATION**

None.

**FISCAL EFFECT**

State sales and use tax collections would decrease by approximately \$460,000 in FY14 and \$580,000 in FY15. County and stadium district sales taxes would decrease by approximately \$40,000 in FY14 and \$50,000 in FY15.

**DRAFTING INSTRUCTIONS**

2011 Assembly Bill 381 as amended by AA 1 to ASA 1.

**EFFECTIVE DATE AND/OR INITIAL APPLICABILITY**

First day of the third month following publication.

**INTERESTED/AFFECTED PARTIES**

Contractors.



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBs0288/1

JK:KJ:9

sac

BB0225 - Lump sum contract  
sales tax exemption

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2011 ASSEMBLY BILL 381**

0516/P1

December 12, 2011 - Offered by Representative JACQUE.

INSERT A

do not gen

the budget

Insert B

1 AN ACT to create 77.54<sup>x</sup> (60) of the statutes; relating to: a sales and use tax  
2 exemption for items and services sold as part of a lump sum contract.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 SECTION 1. 77.54<sup>x</sup> (60) of the statutes is created to read:  
4 77.54 (60) (a) In this subsection, "lump sum contract" means a contract to  
5 perform real property construction activities and to provide tangible personal  
6 property, items or property under s. 77.52 (1) (b) or (c), or taxable services and for  
7 which the contractor quotes the charge for labor, services of subcontractors, tangible  
8 personal property, items and property under s. 77.52 (1) (b) and (c), and taxable  
9 services as one price, including a contract for which the contractor itemizes the  
10 charges for labor, services of subcontractors, tangible personal property, items and  
11 property under s. 77.52 (1) (b) and (c), and taxable services as part of a schedule of  
12 values or similar document.

1 (b) The sales price from the sale of and the storage, use, or other consumption  
 2 of tangible personal property, items and property under s. 77.52 (1) (b) and (c), and  
 3 taxable services that are sold by a contractor as part of a lump sum contract, if the  
 4 total sales price of all such taxable products is less than 10 percent of the total  
 5 amount of the lump sum contract. Except as provided in par. (c), the contractor is  
 6 the consumer of such taxable products and shall pay the tax imposed under this  
 7 subchapter on the taxable products.

8 (c) If the lump sum contract is entered into with an entity that is exempt from  
 9 taxation under sub. (9a), the contractor is the consumer of all taxable products used  
 10 by the contractor in real property construction activities, but the contractor may  
 11 purchase without tax, for resale, tangible personal property, items and property  
 12 under s. 77.52 (1) (b) and (c), and taxable services that are sold by the contractor as  
 13 part of the lump sum contract with the entity and that are not consumed by the  
 14 contractor in real property construction activities.

15 **SECTION 2, Initial applicability**, Revenue <sup>9337</sup>

16 (1) This act first applies to contracts entered into on the effective date of this  
 17 subsection. <sup>9437</sup> LUMP SUM CONTRACTS. The treatment of sections 77.51(11d)  
 18 and 77.54(60) of the Statutes

18 **SECTION 3, Effective date**, Revenue <sup>9437</sup>

19 (1) This act takes effect on the first day of the 3rd month beginning after  
 20 publication.

21 (END)



# 2011 ASSEMBLY BILL 381

November 16, 2011 - Introduced by Representatives JACQUE, KOYENGA, RIVARD and STROEBEL, cosponsored by Senator GROTHMAN. Referred to Committee on Ways and Means. Referred to Joint Survey Committee on Tax Exemptions.

Insert A

TAXATION  
OTHER TAXATION

1 AN ACT to create 77.54 (60) of the statutes; relating to: a sales and use tax  
2 exemption for items and services sold as part of a lump sum contract.

### *Analysis by the Legislative Reference Bureau*

This bill creates a sales and use tax exemption for items and services sold as part of a lump sum contract. Under the bill, a lump sum contract is a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for which the contractor itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 SECTION 1. 77.54 (60) of the statutes is created to read:

4 77.54 (60) (a) In this subsection, "lump sum contract" means a contract to  
5 perform real property construction activities and for which the contractor quotes the

**ASSEMBLY BILL 381**

**SECTION 1**

1 charge for labor, services of subcontractors, and materials as one price, including a  
2 contract for which the contractor itemizes the charges for labor, services of  
3 subcontractors, and materials as part of a schedule of values or similar document.

4 (b) The sales price from the sale of and the storage, use, or other consumption  
5 of tangible personal property, items and property under s. 77.52 (1) (b) and (c), and  
6 taxable services that are sold as part of a lump sum contract, if the total sales price  
7 of all such items is less than 10 percent of the total amount of the lump sum contract.

8 **SECTION 2. Effective date.**

9 (1) This act takes effect on the first day of the 3rd month beginning after  
10 publication.

11 (END)



**ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2011 ASSEMBLY BILL 381**

January 6, 2012 - Offered by Representative JACQUE.

*Insert B*

1  
2  
3  
4  
5  
6  
7  
8  
9

At the locations indicated, amend the substitute amendment as follows:

**1.** Page 1, line 3: before that line insert:

~~SECTION 1d.~~ <sup>SECTION 1g</sup> 77.51 (11d) of the statutes is amended to read:

77.51 (**11d**) For purposes of subs. (1ag), (1f), (3pf), and (9p) and ss. 77.52 (20) and (21), 77.522, and 77.54 (51) ~~and~~, (52), and (60), "product" includes tangible personal property, and items, property, and goods under s. 77.52 (1) (b), (c), and (d), and services. *le*

**2.** Page 1, line 3: delete "SECTION 1" and substitute "SECTION 1g".

(END)



DOA:.....Ley, BB0225 - Lump sum contract sales tax exemption

**FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION**

1 **AN ACT ...; relating to:** the budget.

---

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

This bill creates a sales and use tax exemption for items and services sold as part of a lump sum contract. Under the bill, a lump sum contract is a contract to perform real property construction activities and for which the contractor quotes the charge for labor, services of subcontractors, and materials as one price, including a contract for which the contractor itemizes the charges for labor, services of subcontractors, and materials as part of a schedule of values or similar document.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 **SECTION 1.** 77.51 (11d) of the statutes is amended to read:

1           77.51 (11d) For purposes of subs. (1ag), (1f), (3pf), and (9p) and ss. 77.52 (20)  
2 and (21), 77.522, and 77.54 (51) ~~and~~, (52), and (60), “product” includes tangible  
3 personal property, and items, property, and goods under s. 77.52 (1) (b), (c), and (d),  
4 and services.

5           **SECTION 2.** 77.54 (60) of the statutes is created to read:

6           77.54 (60) (a) In this subsection, “lump sum contract” means a contract to  
7 perform real property construction activities and to provide tangible personal  
8 property, items or property under s. 77.52 (1) (b) or (c), or taxable services and for  
9 which the contractor quotes the charge for labor, services of subcontractors, tangible  
10 personal property, items and property under s. 77.52 (1) (b) and (c), and taxable  
11 services as one price, including a contract for which the contractor itemizes the  
12 charges for labor, services of subcontractors, tangible personal property, items and  
13 property under s. 77.52 (1) (b) and (c), and taxable services as part of a schedule of  
14 values or similar document.

15           (b) The sales price from the sale of and the storage, use, or other consumption  
16 of tangible personal property, items and property under s. 77.52 (1) (b) and (c), and  
17 taxable services that are sold by a contractor as part of a lump sum contract, if the  
18 total sales price of all such taxable products is less than 10 percent of the total  
19 amount of the lump sum contract. Except as provided in par. (c), the contractor is  
20 the consumer of such taxable products and shall pay the tax imposed under this  
21 subchapter on the taxable products.

22           (c) If the lump sum contract is entered into with an entity that is exempt from  
23 taxation under sub. (9a), the contractor is the consumer of all taxable products used  
24 by the contractor in real property construction activities, but the contractor may  
25 purchase without tax, for resale, tangible personal property, items and property

1 under s. 77.52 (1) (b) and (c), and taxable services that are sold by the contractor as  
2 part of the lump sum contract with the entity and that are not consumed by the  
3 contractor in real property construction activities.

4 **SECTION 9337. Initial applicability; Revenue.**

5 (1) LUMP SUM CONTRACTS. The treatment of sections 77.51 (11d) and 77.54 (60)  
6 of the statutes first applies to contracts entered into on the effective date of this  
7 subsection.

8 **SECTION 9437. Effective dates; Revenue.**

9 (1) LUMP SUM CONTRACTS. The treatment of sections 77.51 (11d) and 77.54 (60)  
10 of the statutes takes effect on the first day of the 3rd month beginning after  
11 publication.

12 (END)