

2019 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB251)

For: **Robin Vos (608) 266-9171** Drafter: **jkreye**
 By: **jenny** Secondary Drafters:
 Date: **6/19/2019** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Vos@legis.wisconsin.gov**
 Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Marketplace provider; relieving the marketplace seller from liability

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 6/19/2019	ccarmich 6/19/2019	dwalker 6/19/2019	dwalker 6/19/2019	

FE Sent For: **<END>**

- b. The seller or a related entity is publicly traded on at least one major stock exchange.

This waiver shall be valid at the time the marketplace provider submits the waiver application to the Department of Revenue that includes the information required to be certified in this Subsection.

For all transactions excluded under [the above subsection], the tax levied under Chapter 77, Subchapter III, General Sales and Use Tax, including [other applicable taxes or fees directly imposed on consumer from a transaction, such as franchise fees, and 911 charges], shall be the responsibility of the marketplace seller and the seller must collect and remit such taxes. The marketplace provider is not responsible for collecting and remitting the taxes on such transactions and shall be relieved of liability for any taxes or associated penalties and interest that qualify for exclusion under this section.

highlighted/audit

Item 3. Proposed changes to liability provisions under Sec. 77.523(2):

A marketplace provider who collects and remits tax on a sale under sub. (1) shall notify the marketplace seller that the marketplace provider is collecting and remitting the tax. ~~Upon notification, or~~ Only the marketplace provider may be audited and held liable for tax on the sale. Except for transactions for which a marketplace provider seeks relief under sub. (4), a ~~If notification is not provided, the marketplace provider and marketplace seller shall not be subject to audit or may be audited and held liable on marketplace provider transactions. for tax on the sale.~~

Item 4. Proposed changes to Sec. 77.523(4):

A marketplace provider is relieved of liability under this section for failure to collect and remit the correct amount of tax to the extent that the marketplace provider demonstrates to the satisfaction of the department that the error is due to insufficient or incorrect information given to the marketplace provider by the marketplace seller, provided the marketplace provider demonstrates a reasonable attempt to obtain the information from the marketplace seller, except that this subsection does not apply if the marketplace provider and the marketplace seller are related entities, as defined in s. 71.01 (9am).

Item 5. Proposed addition to a seller's rights and obligations:



State of Wisconsin
2019 - 2020 LEGISLATURE

LRBa0379/1
JK:cdc
ykw

ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 251

NOW

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

- 2 1. Page 9, line 15: delete the material beginning with "Upon" and ending with
3 "sale" on line 19 and substitute "Only the marketplace provider may be audited and
4 held liable for the tax on the sale. Except for transactions for which a marketplace
5 provider seeks relief under sub. (4), a marketplace seller shall not be subject to audit
6 or held liable on marketplace provider transactions".

7 (END)