



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2011 Assembly Bill 381	Assembly Substitute Amendment 1 and Assembly Amendment 1 to Assembly Substitute Amendment 1
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2011 ASSEMBLY BILL 381

2011 Assembly Bill 381 would create a sales and use tax exemption for the sales price of, generally, tangible personal property, and taxable services that are sold as part of a lump sum contract, if the total sales price of the ordinarily taxable items is less than 10% of the total amount of the lump sum contract.

The bill defines “lump sum contract” to mean 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.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 to 2011 Assembly Bill 381 modifies the definition of “lump sum contract” to recognize that tangible personal property, items and property under s. 77.52 (1) (b) or (c), Stats., and taxable services may also be included in a lump sum contract.

The substitute amendment also clarifies the nature of the sales and use tax exemption created by the bill to apply to tangible personal property, items and property under s. 77.52 (1) (b) or (c), Stats., and taxable services that are sold **by a contractor** as part of a lump sum contract. The substitute amendment specifies that, generally, the contractor is the consumer of such taxable products and must pay the sales or use tax on those items.

However, the substitute amendment also creates a provision that specifies, if a lump sum contract is entered into with an entity that is exempt from taxation under s. 77.54 (9a), Stats., the contractor is the

consumer of all taxable products used in the real property construction activities, but the contractor may purchase without tax, for resale, the products listed above that are sold by the contractor as part of the lump sum contract with the entity and that are not consumed by the contractor in real property construction activities.

ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Amendment 1 to Assembly Substitute Amendment 1 adds a cross-reference to the newly-created provision regarding lump sum contracts to the definition of the term “products” in s. 77.51 (11d), Stats., since the term “products” is used in the new provision.

LEGISLATIVE HISTORY

Assembly Bill 381 was introduced on November 16, 2011, by Representative Jacque and others, cosponsored by Senator Grothman. Representative Jacque introduced Assembly Substitute Amendment 1 and Assembly Amendment 1 to Assembly Substitute Amendment 1 on December 12, 2011 and January 6, 2012, respectively. On January 12, 2012, the Assembly Committee on Ways and Means adopted the amendments and recommended passage of the bill on successive votes of Ayes, 9; Noes, 0.

SG:ksm