

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2437/P2dn

JK:kmg:mrc

July 8, 1999

Sherrie Gates-Hendrix, Clay Seth and Vicki Gibbons:

1. I did not replace the word "goods" in the analysis with "tangible personal property" because "tangible personal property" is a legal term with no "common" meaning. The purpose of the analysis is to describe clearly, *in understandable language*, the substance and effect of a legislative proposal.

2. I did not add definitions for "pay" and "sign" because the proposed definitions are not more specific than the generally recognized meanings of "pay" and "sign" and the meaning of both words should be apparent from the context in which they are used. In addition, the department of revenue (DOR) already has the authority, under section 227.11 of the statutes, to promulgate rules regarding how a taxpayer may "pay" DOR and how a taxpayer may "sign" a form required by DOR.

3. I did not amend section 71.80 (19) (a) of the statutes because the plain language of that paragraph, as it currently exists, requires rounding the dollar amount on a form, statement or document to the nearest whole dollar. Also, I think section 71.80 (19) (c) of the statutes *does* state that section 71.80 (19) (a) of the statutes applies only to the total, final amount on any form, statement or document. Therefore, the bill now repeals section 71.80 (19) (c) of the statutes. Is this consistent with your intent?

4. Regarding section 73.03 (47) of the statutes, the inclusion of "ministerial or managerial act" seems redundant. If a DOR employe is acting in a official capacity, what other acts can the employe perform that aren't either ministerial or managerial? The recommended language regarding a delay caused in "significant part" by the taxpayer or the taxpayer's representative also seems redundant. If the acts of the taxpayer or the taxpayer's representative are significant in causing a delay, the taxpayer, presumably, will not be able to show that a DOR employe caused the delay. In addition, who is included in the definition of a taxpayer's representative?

5. Unless otherwise defined, the term "year" refers to the calendar year. See section 990.01 (49) of the statutes. Because the sales and use tax returns and payments under section 77.58 of the statutes are based on the calender year, is it appropriate, or practical, to base the "use" calculation under section 77.51 (22m) of the statutes on anything but the calendar year?

6. Finally, I made the recommended change to the initial applicability related to tax liability. However, the recommended change related to the two-year period for

applying for relief is a substantive modification of sections 66 (c) and 6015 (b) and (c) of the Internal Revenue Code and, therefore, belongs in the text of the statutes. The recommended modification to the Internal Revenue Code is contained in section 71.10 (6) (e) and (6m) (c) of the statutes, as created by the bill. Please review those sections carefully to ensure that they are consistent with your intent. If you have any questions, please contact me.

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