



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1796/1
JK:lmk&cjs:ch
"keep"
AM not AK

TODAY

DOA:.....Koskinen - Sales and use tax on electronic versions of certain
tangible personal property

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1-25-05
DoNotGen
D-N

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill imposes the sales tax and the use tax on audiovisual works, finished artwork, literary works, and audio works that are delivered electronically to a purchaser.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this 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 (1) of the statutes is renumbered 77.51 (1d).

3 SECTION 2. 77.51 (1bk) of the statutes is created to read:

4 77.51 (1bk) "Audio works" means works that result from the fixation of a series
5 of musical, spoken, or other sounds, including prerecorded or live music, prerecorded

1 or live readings of books or other written materials, prerecorded or live speeches, and
2 digitized sound files that are downloaded to a telephone handset. “Audio works” does
3 not include amplitude modulation or frequency modulation broadcast radio services
4 or digital versions of such services or sounds accompanying an audiovisual work.

5 **SECTION 3.** 77.51 (1bm) of the statutes is created to read:

6 **77.51 (1bm)** “Audiovisual works” means a series of related images that, when
7 shown in succession, impart an impression of motion, together with sound, including
8 motion pictures, musical videos, and live events. “Audiovisual works” does not
9 include ultrahigh frequency or very high frequency broadcast television services or
10 digital versions of such services, cable television system services, or computer
11 software.

12 **SECTION 4.** 77.51 (3s) of the statutes is created to read:

13 **77.51 (3s)** “Finished artwork” means the final art used for actual reproduction
14 by photomechanical or other processes or for display purposes. “Finished artwork”
15 also includes all of the following items regardless of whether such items are
16 reproduced:

17 (a) Drawings.

18 (b) Paintings.

19 (c) Designs.

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21 (e) Lettering.

22 (f) Paste-ups.

23 (g) Mechanicals.

24 (h) Assemblies.

25 (i) Charts.

1 (j) Graphs.

2 (k) Illustrative materials.

3 SECTION 5. 77.51 (7d) of the statutes is created to read:

4 77.51 (7d) "Literary works" means works, not including audiovisual works,
5 audio works, and computer software that are expressed in words, numbers, or other
6 verbal or numerical symbols or indicia, including books and periodicals.

7 SECTION 6. 77.51 (13) (e) of the statutes is amended to read:

8 77.51 (13) (e) A person selling tangible personal property, audiovisual works,
9 finished artwork, literary works, or audio works to a service provider who transfers
10 the property, audiovisual work, finished artwork, literary work, or audio work in
11 conjunction with the selling, performing or furnishing of any service and the
12 property, audiovisual work, finished artwork, literary work, or audio work is
13 incidental to the service, unless the service provider is selling, performing or
14 furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not
15 apply to sub. (2).

16 SECTION 7. 77.51 (13) (f) of the statutes is amended to read:

17 77.51 (13) (f) A service provider who transfers tangible personal property,
18 audiovisual works, finished artwork, literary works, or audio works in conjunction
19 with but not incidental to the selling, performing or furnishing of any service and a
20 service provider selling, performing or furnishing services under s. 77.52 (2) (a) 7.,
21 10., 11. and 20. This subsection does not apply to sub. (2).

22 SECTION 8. 77.51 (14) (L) of the statutes is amended to read:

23 77.51 (14) (L) Transfers by a service provider of tangible personal property,
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2 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not apply to sub. (2).

3 **SECTION 9.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a).

4 **SECTION 10.** 77.52 (1) (b) of the statutes is created to read:

5 77.52 (1) (b) For the privilege of selling, licensing, leasing, or renting
6 audiovisual works, finished artwork, literary works, and audio works that are
7 delivered electronically to a purchaser, a tax is imposed on all retailers at the rate
8 of 5 percent of the gross receipts from the sale, license, lease, or rental of the
9 audiovisual works, finished artwork, literary works, and audio works.

10 **SECTION 11.** 77.52 (2m) (a) of the statutes is amended to read:

11 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
12 of the charge for the service may be deemed a sale or rental of tangible personal
13 property, audiovisual works, finished artwork, literary works, or audio works if the
14 property, audiovisual work, finished artwork, literary work, or audio work
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16 furnishing of the service, except as provided in par. (b).

17 **SECTION 12.** 77.52 (2m) (b) of the statutes is amended to read:

18 77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,
19 10., 11. and 20., all property, audiovisual works, finished artwork, literary works, or
20 audio works physically transferred to the customer in conjunction with the selling,
21 performing or furnishing of the service is a sale of tangible personal property,
22 audiovisual works, finished artwork, literary works, or audio works separate from
23 the selling, performing or furnishing of the service.

24 **SECTION 13.** 77.53 (1) of the statutes is amended to read:

INSERT 4-9

1 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
 2 on the use or consumption in this state of taxable services under s. 77.52 purchased
 3 from any retailer, at the rate of 5% of the sales price of those services; on the storage,
 4 use or other consumption in this state of tangible personal property purchased from
 5 any retailer, at the rate of 5% of the sales price of that property; on the storage, use,
 6 or other consumption of audiovisual works, finished artwork, literary works, and
 7 audio works purchased from any retailer and delivered electronically to the
 8 purchaser, at the rate of 5% of the sales price of such items; and on the storage, use
 9 or other consumption of tangible personal property manufactured, processed or
 10 otherwise altered, in or outside this state, by the person who stores, uses or consumes
 11 it, from material purchased from any retailer, at the rate of 5% of the sales price of
 12 that material.

13 **SECTION 14.** 77.54 (48) of the statutes is created to read:

14 77.54 (48) The gross receipts from the sale of and the storage, use, or other
 15 consumption of audiovisual works, finished artwork, literary works, and audio
 16 works that are delivered electronically to the purchaser, if the sale of and the storage,
 17 use, or other consumption of such items sold in a tangible form is exempt from
 18 taxation under this subchapter.

19 **SECTION 9441. Effective dates; revenue.**

20 (1) SALES AND USE TAX ON ITEMS DELIVERED ELECTRONICALLY. The treatment of
 21 sections 77.51 (1), (1bk), (1bm), (3s), (7d), (13) (e) and (f), and (14) (L), 77.52 (1) (a)
 22 and (b), (2m) (a) and (b), 77.53 (1), and 77.54 (48) of the statutes takes effect on the
 23 first day of the 2nd month beginning after publication. and the creation of section 77.52(1)(b) of the statutes

(END)

24 **(b)** The repeal and recreation of section 77.52(1)(b) of the statutes takes effect on October 1, 2005.

77.52(1)(b) of the statutes
d-w

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1796/lins
JK:lmk&cjs:ch

Insert 4 - 9

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2
3
4
5
6

SECTION 1. 77.52 (1) (b) of the statutes is repealed and recreated to read:

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****NOTE: This is reconciled s. 77.52 (1) (b). This SECTION has been affected by LRB-0303/2. ✓

as affected by 2005 Wisconsin Act...
(contract)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1796/1dn

JK:lmk&cjs:ch

keep

(date)

This draft reconciles LRB-1796/1 and LRB-0303/2. Both of these drafts should continue to appear in the compiled bill.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1796/2dn
JK:lmk&cjs:jf

January 26, 2005

This draft reconciles LRB-1796/1 and LRB-0303/2. Both of these drafts should continue to appear in the compiled bill.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Kreye, Joseph

From: Kraus, Jennifer - DOA
Sent: Wednesday, January 26, 2005 4:42 PM
To: Kreye, Joseph
Cc: Lashore, Patricia M
Subject: FW: LRB Draft: 05-1796/2 Sales and use tax on electronic versions of certain tangible personal property

This should be last set of comments on this draft. Jenny

-----Original Message-----

From: Lashore, Patricia M
Sent: Wednesday, January 26, 2005 4:16 PM
To: Kraus, Jennifer - DOA
Subject: LRB Draft: 05-1796/2 Sales and use tax on electronic versions of certain tangible personal property

Here are comments on this draft.

-----Original Message-----

From: Gibbons, Vicki L
Sent: Wednesday, January 26, 2005 4:15 PM
To: Lashore, Patricia M
Cc: Brennan, Audra D; Hardt, Diane L; Gates-Hendrix, Sherrie
Subject: FW: LRB Draft: 05-1796/2 Sales and use tax on electronic versions of certain tangible personal property

I have the following changes:

Page 2, line 3 - Delete "amplitude modulation or frequency modulation"
Page 2, line 4 - Delete "or digital versions of such services"

Legal believes that the words are not necessary since both are encompassed in "broadcast."

Page 2, line 9 - Delete "ultrahigh frequency or very high frequency"
Page 2, line 10 - Delete "digital versions of such services,"

Legal believes that the words are not necessary since both are encompassed in "broadcast."

Page 2, line 10/11 - Delete "or computer software"

Legal did not believe there would be an overlap with computer software.

Note: Other relationships to 0303/

- 77.51(14)(L) - 0303 repeals that section but the language is now in 77.51(15a)(a) and 77.51(15a)(b)3 of 0303/1
- 77.53(1) is amended in 0303/1

Vicki L. Gibbons
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Wisconsin Department of Revenue
P.O. Box 8933
Madison, WI 53708
(608) 266-3873
vgibbons@dor.state.wi.us

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From: Lashore, Patricia M
Sent: Wednesday, January 26, 2005 2:17 PM

To: Gibbons, Vicki L; Brennan, Audra D; Hardt, Diane L; Gates-Hendrix, Sherrie
Subject: LRB Draft: 05-1796/2 Sales and use tax on electronic versions of certain tangible personal property



05-1796/2



05-1796/2dn

Please review this revised draft. Thanks.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

3
LRB-1796/2dn
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Keep

January 26, 2005
(date)

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Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us



State of Wisconsin
2005 - 2006 LEGISLATURE

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RM wtr

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FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

in 1-27-05

D-2

DO NOT SEN

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9 audiovisual works, finished artwork, literary works, and audio works.

10 **SECTION 11.** 77.52 (1) (b) of the statutes, as affected by 2005 Wisconsin Act
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12 77.52 (1) (b) For the privilege of selling, licensing, leasing, or renting
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16 works, finished artwork, literary works, and audio works.

***NOTE: This is reconciled s. 77.52 (1) (b). This SECTION has been affected by
LRB-0303/2.

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18 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
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12 use or other consumption in this state of tangible personal property purchased from
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19 it, from material purchased from any retailer, at the rate of 5% of the sales price of
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5 (a) The treatment of sections 77.51 (1), (1bk), (1bm), (3s), (7d), (13) (e) and (f),
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11

(END)



**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1796/2dn
JK:lmk&cjs:rs

January 27, 2005

This draft reconciles LRB-1796/1 and LRB-0303/2. Both of these drafts should continue to appear in the compiled bill.

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1796/3

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Keep

PM not R

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2 performing or furnishing of the service is a sale of tangible personal property,
3 audiovisual works, finished artwork, literary works, or audio works separate from
4 the selling, performing or furnishing of the service.

5 **SECTION 14.** 77.53 (1) of the statutes is amended to read:

6 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
7 on the use or consumption in this state of taxable services under s. 77.52 purchased
8 from any retailer, at the rate of 5% of the sales price of those services; on the storage,
9 use or other consumption in this state of tangible personal property purchased from
10 any retailer, at the rate of 5% of the sales price of that property; on the storage, use,
11 or other consumption of audiovisual works, finished artwork, literary works, and
12 audio works purchased from any retailer and delivered electronically to the
13 purchaser, at the rate of 5% of the sales price of such items; and on the storage, use
14 or other consumption of tangible personal property manufactured, processed or
15 otherwise altered, in or outside this state, by the person who stores, uses or consumes
16 it, from material purchased from any retailer, at the rate of 5% of the sales price of
17 that material.

18 **SECTION 15.** 77.54 (48) of the statutes is created to read:

19 77.54 (48) The gross receipts from the sale of and the storage, use, or other
20 consumption of audiovisual works, finished artwork, literary works, and audio
21 works that are delivered electronically to the purchaser, if the sale of and the storage,
22 use, or other consumption of such items sold in a tangible form is exempt from
23 taxation under this subchapter.

24 **SECTION 9441. Effective dates; revenue.**

25 (1) SALES AND USE TAX ON ITEMS DELIVERED ELECTRONICALLY.

1 (a) The treatment of sections 77.51 (1), (1bk), (1bm), (3s), (7d), (13) (e) and (f),
2 and (14) (L), 77.52 (1) (a), (2m) (a) and (b), 77.53 (1), and 77.54 (48) of the statutes
3 and the creation of section 77.52 (1) (b) of the statutes take effect on the first day of
4 the 2nd month beginning after publication.

5 (b) The repeal and recreation of section 77.52 (1) (b) of the statutes takes effect
6 on October 1, 2005^o

7 (END)

or on the [✓]first day of the [✓]2nd month beginning after
publication, whichever is later



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1796/4
JK:lmk&cjs:pg

DOA:.....Koskinen - Sales and use tax on electronic versions of certain
tangible personal property

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill imposes the sales tax and the use tax on audiovisual works, finished artwork, literary works, and audio works that are delivered electronically to a purchaser.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this 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 (1) of the statutes is renumbered 77.51 (1d).

3 SECTION 2. 77.51 (1bk) of the statutes is created to read:

4 77.51 (1bk) "Audio works" means works that result from the fixation of a series
5 of musical, spoken, or other sounds, including prerecorded or live music, prerecorded

1 or live readings of books or other written materials, prerecorded or live speeches, and
2 digitized sound files that are downloaded to a telephone handset. “Audio works” does
3 not include broadcast radio services or sounds accompanying an audiovisual work.

4 **SECTION 3.** 77.51 (1bm) of the statutes is created to read:

5 77.51 (1bm) “Audiovisual works” means a series of related images that, when
6 shown in succession, impart an impression of motion, together with sound, including
7 motion pictures, musical videos, and live events. “Audiovisual works” does not
8 include broadcast television services or cable television system services.

9 **SECTION 4.** 77.51 (3s) of the statutes is created to read:

10 77.51 (3s) “Finished artwork” means the final art used for actual reproduction
11 by photomechanical or other processes or for display purposes. “Finished artwork”
12 also includes all of the following items regardless of whether such items are
13 reproduced:

14 (a) Drawings.

15 (b) Paintings.

16 (c) Designs.

17 (d) Photographs.

18 (e) Lettering.

19 (f) Paste-ups.

20 (g) Mechanicals.

21 (h) Assemblies.

22 (i) Charts.

23 (j) Graphs.

24 (k) Illustrative materials.

25 **SECTION 5.** 77.51 (7d) of the statutes is created to read:

1 77.51 (7d) “Literary works” means works, not including audiovisual works,
2 audio works, and computer software that are expressed in words, numbers, or other
3 verbal or numerical symbols or indicia, including books and periodicals.

4 **SECTION 6.** 77.51 (13) (e) of the statutes is amended to read:

5 77.51 (13) (e) A person selling tangible personal property, audiovisual works,
6 finished artwork, literary works, or audio works to a service provider who transfers
7 the property, audiovisual work, finished artwork, literary work, or audio work in
8 conjunction with the selling, performing or furnishing of any service and the
9 property, audiovisual work, finished artwork, literary work, or audio work is
10 incidental to the service, unless the service provider is selling, performing or
11 furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not
12 apply to sub. (2).

13 **SECTION 7.** 77.51 (13) (f) of the statutes is amended to read:

14 77.51 (13) (f) A service provider who transfers tangible personal property,
15 audiovisual works, finished artwork, literary works, or audio works in conjunction
16 with but not incidental to the selling, performing or furnishing of any service and a
17 service provider selling, performing or furnishing services under s. 77.52 (2) (a) 7.,
18 10., 11. and 20. This subsection does not apply to sub. (2).

19 **SECTION 8.** 77.51 (14) (L) of the statutes is amended to read:

20 77.51 (14) (L) Transfers by a service provider of tangible personal property,
21 audiovisual works, finished artwork, literary works, or audio works in conjunction
22 with but not incidental to the selling, performing or furnishing of any service, and
23 transfers by a service provider selling, performing or furnishing services under s.
24 77.52 (2) (a) 7., 10., 11. and 20. This subsection does not apply to sub. (2).

25 **SECTION 9.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a).

1 **SECTION 10.** 77.52 (1) (b) of the statutes is created to read:

2 77.52 (1) (b) For the privilege of selling, licensing, leasing, or renting
3 audiovisual works, finished artwork, literary works, and audio works that are
4 delivered electronically to a purchaser, a tax is imposed on all retailers at the rate
5 of 5 percent of the gross receipts from the sale, license, lease, or rental of the
6 audiovisual works, finished artwork, literary works, and audio works.

7 **SECTION 11.** 77.52 (1) (b) of the statutes, as created by 2005 Wisconsin Act
8 (this act), is repealed and recreated to read:

9 77.52 (1) (b) For the privilege of selling, licensing, leasing, or renting
10 audiovisual works, finished artwork, literary works, and audio works that are
11 delivered electronically to a purchaser, a tax is imposed on all retailers at the rate
12 of 5 percent of the sales price from the sale, license, lease, or rental of the audiovisual
13 works, finished artwork, literary works, and audio works.

 ***NOTE: This is reconciled s. 77.52 (1) (b). This SECTION has been affected by
LRB-0303/2.

14 **SECTION 12.** 77.52 (2m) (a) of the statutes is amended to read:

15 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
16 of the charge for the service may be deemed a sale or rental of tangible personal
17 property, audiovisual works, finished artwork, literary works, or audio works if the
18 property, audiovisual work, finished artwork, literary work, or audio work
19 transferred by the service provider is incidental to the selling, performing or
20 furnishing of the service, except as provided in par. (b).

21 **SECTION 13.** 77.52 (2m) (b) of the statutes is amended to read:

22 77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,
23 10., 11. and 20., all property, audiovisual works, finished artwork, literary works, or

1 audio works physically transferred to the customer in conjunction with the selling,
2 performing or furnishing of the service is a sale of tangible personal property,
3 audiovisual works, finished artwork, literary works, or audio works separate from
4 the selling, performing or furnishing of the service.

5 **SECTION 14.** 77.53 (1) of the statutes is amended to read:

6 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
7 on the use or consumption in this state of taxable services under s. 77.52 purchased
8 from any retailer, at the rate of 5% of the sales price of those services; on the storage,
9 use or other consumption in this state of tangible personal property purchased from
10 any retailer, at the rate of 5% of the sales price of that property; on the storage, use,
11 or other consumption of audiovisual works, finished artwork, literary works, and
12 audio works purchased from any retailer and delivered electronically to the
13 purchaser, at the rate of 5% of the sales price of such items; and on the storage, use
14 or other consumption of tangible personal property manufactured, processed or
15 otherwise altered, in or outside this state, by the person who stores, uses or consumes
16 it, from material purchased from any retailer, at the rate of 5% of the sales price of
17 that material.

18 **SECTION 15.** 77.54 (48) of the statutes is created to read:

19 77.54 (48) The gross receipts from the sale of and the storage, use, or other
20 consumption of audiovisual works, finished artwork, literary works, and audio
21 works that are delivered electronically to the purchaser, if the sale of and the storage,
22 use, or other consumption of such items sold in a tangible form is exempt from
23 taxation under this subchapter.

24 **SECTION 9441. Effective dates; revenue.**

25 (1) SALES AND USE TAX ON ITEMS DELIVERED ELECTRONICALLY.

