



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0728/1

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soon

DOA:.....Easton, BB0171 - Streamlined sales and use tax agreement provisions

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

LPS: insert to inserts

in 1-1-07

DW

DO NOT GEN

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

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

This bill adopts the substantive provisions of the streamlined sales and use tax agreement (agreement) for purposes of administering and collecting state, county, and stadium district sales and use taxes. The agreement is intended to ~~streamline and~~ modernize sales and use tax administration for the states that enter into the agreement and to encourage out-of-state retailers to collect the state, county, and stadium district sales and use taxes voluntarily. Under current federal law, generally, an out-of-state retailer who sells tangible personal property or services to customers in this state is not required to collect the sales tax or use tax imposed on such sales, if the retailer has no physical presence in this state. See *Quill v. North Dakota*, 504 U.S. 298; 112 S.Ct. 1904 (1992).

States that wish to enter into the agreement must adopt uniform definitions related to the administration of sales and use taxes and uniform policies related to sourcing sales of tangible personal property and services, bad debt allowances, refunds, and, to some extent, exemptions. Under the agreement, DOR may act jointly with other states that are signatories to the agreement to establish standards for certifying service providers and automated systems to aid out-of-state retailers with the collection of state sales and use taxes.

Under current law, "gross receipts" refers to the measure of the sales tax, and "sales price" refers to the measure of the use tax. Under the bill, "sales price" refers to the measure of the sales tax, and "purchase price" refers to the measure of the use tax.

The bill creates definitions for "alcoholic beverages," "bundled transaction," "candy," "delivery charges," "dietary supplement," "food and food ingredients," "prepared food," and "soft drink."

The agreement provides that a state that is a signatory to the agreement may choose to tax or not tax all articles that are covered by one definition, but a state may not exempt from sales tax or use tax a particular item that is included in a definition. The members of the project working on the agreement approved a definition for "clothing." Therefore, in order to comply with the agreement, a state may either tax all clothing or exempt all clothing, but a state may not exempt certain items of clothing and tax others. This bill, therefore, eliminates the sales tax and use tax exemptions for cloth diapers and antiembolism hose.

This bill creates definitions for "durable medical equipment," "mobility-enhancing equipment," and "prosthetic device." Under the bill, the sale of such equipment and devices is exempt from the sales tax and the use tax.

Under the bill, generally, for purposes of determining which jurisdiction may impose a sales tax or use tax on a sale, if a purchaser receives a product at the seller's business location, the sale of that product occurs at the seller's business location. If a purchaser does not receive the product at a seller's business location, the sale occurs at the location where the purchaser receives the product. If the location of the sale cannot be so determined, the sale occurs at the purchaser's address, as indicated by the seller's business records. If the address cannot be determined from the business records, the sale occurs at the purchaser's address, as obtained during the consummation of the sale, including the address indicated on the purchaser's check. Finally, if the location of a sale cannot be determined in any other way, the sale of tangible personal property occurs at the location from which the tangible personal property is shipped. Under the bill, generally, if the item sold is a digital good or computer software, and the digital good or computer software is delivered electronically, the sale occurs at the location from which the digital good or computer software was first available for transmission by the seller.

Under the bill, generally, the sale of a telecommunications service occurs at a location that is determined to be consistent with the provisions of the federal Mobile Telecommunications Sourcing Act.

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.

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

1           **SECTION 1.** 20.435 (3) (bm) of the statutes is repealed.

2           **SECTION 2.** 20.566 (1) (ho) of the statutes is created to read:

3           20.566 (1) (ho) *Collections under multistate streamlined sales tax project.* From  
4           moneys collected under the multistate streamlined sales tax project as provided  
5           under s. 73.03 (28e), a sum sufficient to pay the dues necessary to participate in the  
6           governing board of the multistate streamlined sales tax project.

7           **SECTION 3.** 46.513 of the statutes is repealed.

8           **SECTION 4.** 66.0615 (1m) (f) 2. of the statutes is amended to read:

9           66.0615 (1m) (f) 2. Sections 77.51 (12m), (14) (e), (f) and (j) and, (14g), (15a),  
10          and (15b), 77.52 (3), (4), (~~6~~) and (13), (14), (18), and (19), 77.522, 77.58 (1) to (5), (6m),  
11          and (7), 77.585, 77.59, 77.60, 77.61 (2), (3m), (5), (8), (9), and (12) to (~~14~~) (15), and  
12          77.62, as they apply to the taxes under subch. III of ch. 77, apply to the tax described  
13          under subd. 1.

14          **SECTION 5.** 70.111 (23) of the statutes is amended to read:

15          70.111 (23) **VENDING MACHINES.** All machines that automatically dispense soda  
16          water beverages, as defined in s. 97.29 (1) (i), and items included as a food or beverage  
17          under s. ~~77.54 (20) (a) and (b)~~ food and food ingredient, as defined in s. 77.51 (3t),  
18          upon the deposit in the machines of specified coins or currency, or insertion of a credit  
19          card, in payment for the soda water beverages, ~~food or beverages~~ food and food  
20          ingredient, as defined in s. 77.51 (3t).

21          **SECTION 6.** 73.03 (28e) of the statutes is created to read:

22          73.03 (28e) To participate in the governing board of the multistate streamlined  
23          sales tax project and to allocate a portion of the amount collected under ch. 77  
24          through the project to the appropriation under s. 20.566 (1) (ho) to pay the dues

1 necessary to participate in the project. The department shall allocate the remainder  
2 of such collections to the general fund.

3 **SECTION 7.** 73.03 (50) (d) of the statutes is amended to read:

4 73.03 (50) (d) In the case of a sole proprietor, signs the form or, in the case of  
5 other persons, has an individual who is authorized to act on behalf of the person sign  
6 the form, or, in the case of a single-owner entity that is disregarded as a separate  
7 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any  
8 person who may register under this subsection may designate an agent, as defined  
9 in s. 77.524 (1) (ag), to register with the department under this subsection in the  
10 manner prescribed by the department. In this paragraph, "sign" has the meaning  
11 given in s. 77.51 (17r).

12 **SECTION 8.** 73.03 (50b) of the statutes is created to read:

13 73.03 (50b) To waive the fee established under sub. (50) for applying for and  
14 renewing the business tax registration certificate, if the person who is applying for  
15 or renewing the certificate is not required for purposes of ch. 77 to hold such a  
16 certificate.

17 **SECTION 9.** 73.03 (61) of the statutes is created to read:

18 73.03 (61) To do all of the following related to the Uniform Sales and Use Tax  
19 Administration Act:

20 (a) Certify compliance with the agreement, as defined in s. 77.65 (2) (a).

21 (b) Pursuant to the agreement, as defined in s. 77.65 (2) (a), certify certified  
22 service providers, as defined in s. 77.51 (1g), and certified automated systems, as  
23 defined in s. 77.524 (1) (am).

24 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish  
25 performance standards and eligibility criteria for a seller that sells tangible personal

1 property or taxable services in at least 5 states that are signatories to the agreement,  
2 as defined in s. 77.65 (2) (a); that has total annual sales revenue of at least  
3 \$500,000,000; that has a proprietary system that calculates the amount of tax owed  
4 to each taxing jurisdiction in which the seller sells tangible personal property or  
5 taxable services; and that has entered into a performance agreement with the states  
6 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of  
7 this paragraph, "seller" includes an affiliated group of sellers using the same  
8 proprietary system to calculate the amount of tax owed in each taxing jurisdiction  
9 in which the sellers sell tangible personal property or taxable services.

10 (d) Issue a tax identification number to a person who claims an exemption  
11 under subch. III or V of ch. 77 and who is not required to register with the department  
12 for the purposes of subch. III or V of ch. 77 and establish procedures for the  
13 registration of such a person.

14 (e) Maintain a database that is accessible to sellers and certified service  
15 providers, as defined in s. 77.51 (1g), that indicates whether items defined in  
16 accordance with the Uniform Sales and Use Tax Administration Act are taxable or  
17 nontaxable. *and available in a downloadable format*

18 (f) Maintain a database that is accessible to sellers and certified service  
19 providers, as defined in s. 77.51 (1g), that indicates tax rates, taxing jurisdiction  
20 boundaries, and zip code or address assignments related to the administration of  
21 taxes imposed under subchs. III and V of ch. 77.

22 (g) Set forth the information that the seller shall provide to the department for  
23 tax exemptions claimed by purchasers and establish the manner in which a seller  
24 shall provide such information to the department.

1 (h) Provide monetary allowances, in addition to the retailer's discount provided  
2 under s. 77.61 (4) (c), to certified service providers, as defined in s. 77.51 (1g), and  
3 sellers that use certified automated systems, as defined in s. 77.524 (1) (am), or  
4 proprietary systems, pursuant to the agreement as defined in s. 77.65 (2) (a).

5 **SECTION 10.** 76.07 (4g) (b) 8. of the statutes is amended to read:

6 76.07 (4g) (b) 8. Determine transport-related revenue by adding public service  
7 revenue allocated to this state on the basis of routes for which the company is  
8 authorized to receive subsidy payments, mutual aid allocated to this state on the  
9 basis of the ratio of transport revenues allocated to this state to transport revenues  
10 everywhere in the previous year, in-flight sales allocated to this state as they are  
11 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from  
12 sales made in this state.

13 **SECTION 11.** 77.51 (1) of the statutes is renumbered 77.51 (1d).

14 **SECTION 12.** 77.51 (1b) of the statutes is created to read:

15 77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human  
16 consumption and that contains 0.5 percent or more of alcohol by volume.

17 **SECTION 13.** 77.51 (1bm) of the statutes is created to read:

18 77.51 (1bm) "Bundled transaction" means the retail sale of 2 or more products,  
19 not including real property and services to real property, if the products are distinct  
20 and identifiable products and sold for one nonitemized price. "Bundled transaction"  
21 does not include any of the following:

22 (a) The sale of any products for which the sales price varies or is negotiable  
23 based on the purchaser's selection of the products included in the transaction.

1 (b) The retail sale of tangible personal property and a service, if the tangible  
2 personal property is essential to the use of the service, and provided exclusively in  
3 connection with the service, and if the true object of the transaction is the service.

4 (c) The retail sale of services, if one of the services is essential to the use or  
5 receipt of another service, and provided exclusively in connection with the other  
6 service, and if the true object of the transaction is the other service.

7 (d) A transaction that includes taxable and nontaxable tangible products, if the  
8 purchase price or the sales price of the taxable products is no greater than 10 percent  
9 of the total purchase price or sales price of all the products included in what would  
10 otherwise be a bundled transaction, as determined by the seller using either the  
11 purchase price or the sales price, but not a combination of both, or, in the case of a  
12 service contract, the full term of the service contract.

13 (e) The retail sale of taxable tangible personal property and tangible personal  
14 property that is exempt from the taxes imposed under this subchapter, if the  
15 transaction includes food and food ingredients, drugs, durable medical equipment,  
16 mobility-enhancing equipment, prosthetic devices, or medical supplies and if the  
17 *seller's* purchase price or the sales price of the taxable tangible personal property is no  
18 greater than 50 percent of the total purchase price or sales price of all the tangible  
19 personal property included in what would otherwise be a bundled transaction, as  
20 determined by the seller using either the purchase price or the sales price, but not  
21 a combination of both. *seller's*

22 **SECTION 14.** 77.51 (1e) of the statutes is created to read:

23 77.51 (1e) "Candy" means a preparation of sugar, honey, or other natural or  
24 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or



1 4. An amino acid.

2 5. A dietary substance that is intended for human consumption to supplement  
3 the diet by increasing total dietary intake.

4 6. A concentrate, metabolite, constituent, or extract.

5 (b) The product is intended for ingestion in tablet, capsule, powder, soft-gel,  
6 gel-cap, or liquid form, or, if not intended for ingestion in such forms, is not  
7 represented as conventional food and is not represented for use as the sole item of  
8 a meal or diet.

9 (c) The product is required to be labeled as a dietary supplement as required  
10 under 21 CFR 101.36.

11 **SECTION 20.** 77.51 (3pd) of the statutes is created to read:

12 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.  
13 postal service or other delivery service to a mass audience or to addressees on a  
14 mailing list provided by or at the direction of the purchaser of the printed material,  
15 if the cost of the printed material or any tangible personal property included with the  
16 printed material is not billed directly to the recipients of the printed material.  
17 "Direct mail" includes any tangible personal property provided directly or indirectly  
18 by the purchaser of the printed material to the seller of the printed material for  
19 inclusion in any package containing the printed material. "Direct mail" does not  
20 include multiple items of printed material delivered to a single address.

21 **SECTION 21.** 77.51 (3pe)<sup>3pf</sup> of the statutes is created to read:

22 77.51 (3pe) "Distinct and identifiable product" does not include any of the  
23 following:

*3pf*  
*B*

*INSERT*  
*9-20*

*including billing invoices,*  
*return envelopes, and*  
*additional marketing*  
*materials*

1 (a) Containers, boxes, sacks, bags, bottles, wrapping, labels, tags, instruction  
2 guides, envelopes, and other materials that accompany, and are incidental or  
3 immaterial to, the retail sale of any product.

4 (b) A product that is provided free of charge to the consumer in conjunction with  
5 the purchase of another product, if the ~~purchase price~~ sales price of the other  
6 product does not vary depending on whether the product provided free of charge is  
7 included in the transaction.

8 (c) Any items specified under sub. (12m) (a) or (15b) (a).

9 **SECTION 22.** 77.51 (3pj) of the statutes is created to read:

10 77.51 (3pj) "Drug" means a compound, substance, or preparation, or any  
11 component of them, other than food and food ingredients, dietary supplements, or  
12 alcoholic beverages, to which any of the following applies:

13 (a) It is listed in the United States Pharmacopoeia, Homeopathic  
14 Pharmacopoeia of the United States, or National Formulary, or any supplement to  
15 any of them.

16 (b) It is intended for use in diagnosing, curing, mitigating, treating, or  
17 preventing a disease.

18 (c) It is intended to affect a function or structure of the body.

19 **SECTION 23.** 77.51 (3pm) of the statutes is created to read:

20 77.51 (3pm) "Durable medical equipment" means equipment, including the  
21 repair parts and replacement parts for the equipment that is primarily and  
22 customarily used for a medical purpose related to a person; that can withstand  
23 repeated use; that is not generally useful to a person who is not ill or injured; and that  
24 is not placed in or worn on the body. "Durable medical equipment" does not include  
25 mobility-enhancing equipment.

7 INSERT  
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1           **SECTION 24.** 77.51 (3pp) of the statutes is created to read:

2           77.51 (**3pp**) "Electronic" means relating to technology having electrical,  
3           digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

4           **SECTION 25.** 77.51 (3t) of the statutes is created to read:

5           77.51 (**3t**) "Food and food ingredient" means a substance in liquid,  
6           concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or  
7           for chewing, by humans and that is ingested or chewed for its taste or nutritional  
8           value. "Food and food ingredient" does not include alcoholic beverages or tobacco.

9           **SECTION 26.** 77.51 (4) of the statutes is repealed.

10          **SECTION 27.** 77.51 (5) of the statutes is amended to read:

11          77.51 (**5**) For purposes of subs. (13) (e) and (f) and ~~(14)-(L)~~ (15a) and s. 77.52  
12          (2m), "incidental" means depending upon or appertaining to something else as  
13          primary; something necessary, appertaining to, or depending upon another which is  
14          termed the principal; something incidental to the main purpose of the service.  
15          Tangible personal property transferred by a service provider is incidental to the  
16          service if the purchaser's main purpose or objective is to obtain the service rather  
17          than the property, even though the property may be necessary or essential to  
18          providing the service.

19          **SECTION 28.** 77.51 (7) of the statutes is repealed and recreated to read:

20          77.51 (**7**) (a) "Lease or rental" means any transfer of possession or control of  
21          tangible personal property for a fixed or indeterminate term and for consideration  
22          and includes:

- 23                1. A transfer that includes future options to purchase or extend.
- 24                2. Agreements related to the transfer of possession or control of motor vehicles
- 25                or trailers, if the amount of any consideration may be increased or decreased by

1 reference to the amount realized on the sale or other disposition of such motor  
2 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

3 (b) "Lease or rental" does not include any of the following:

4 1. A transfer of possession or control of tangible personal property under a  
5 security agreement or deferred payment plan, if such agreement or plan requires  
6 transferring title to the tangible personal property after making all required  
7 payments.

8 2. A transfer of possession or control of tangible personal property under any  
9 agreement that requires transferring title to the tangible personal property after  
10 making all required payments and after paying an option price that does not exceed  
11 the greater of \$100 or 1 percent of the total amount of the required payments.

12 3. Providing tangible personal property along with an operator, if the operator  
13 is necessary for the tangible personal property to perform in the manner for which  
14 it is designed and if the operator does more than maintain, inspect, or set up the  
15 tangible personal property.

16 (c) 1. Transfers described under par. (a) are considered a lease or rental,  
17 regardless of whether such transfer is considered a lease or rental under generally  
18 accepted accounting principles, or any provision of federal or local law, or any other  
19 provision of state law.

20 2. Transfers described under par. (b) are not considered a lease or rental,  
21 regardless of whether such transfer is considered a lease or rental under generally  
22 accepted accounting principles, or any provision of federal or local law, or any other  
23 provision of state law.

24 **SECTION 29.** 77.51 (7m) of the statutes is created to read:

INSERT  
12-23

1           77.51 (7m) "Mobility-enhancing equipment" means equipment, including the  
 2 repair parts and replacement parts for the equipment, that is primarily and  
 3 customarily used to provide or increase the ability of a person to move from one place  
 4 to another; that may be used in a home or motor vehicle; and that is generally not  
 5 used by a person who has normal mobility. "Mobility-enhancing equipment" does  
 6 not include a motor vehicle or any equipment on a motor vehicle that is generally  
 7 provided by a motor vehicle manufacturer.

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8           **SECTION 30.** 77.51 (9p) of the statutes is created to read:

9           77.51 (9p) "One nonitemized price" does not include a price that is separately  
 10 identified by product on a binding sales document, or other sales-related document,  
 11 that is made available to the customer in paper or electronic form, including an  
 12 invoice, a bill of sales, a receipt, a contract, a service agreement, a lease agreement,  
 13 a periodic notice of rates and services, a rate card, or a price list.

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13-13

14           **SECTION 31.** 77.51 (10m) of the statutes is created to read:

15           77.51 (10m) (a) "Prepared food" means:

- 16           1. Food and food ingredients sold in a heated state.
- 17           2. Food and food ingredients heated by the retailer, except as provided in par.

18           (b).

19           3. Food and food ingredients sold with eating utensils that are provided by the  
 20 retailer of the food and food ingredients, including plates, knives, forks, spoons,  
 21 glasses, cups, napkins, or straws. In this subdivision, "plate" does not include a  
 22 container or packaging used to transport food and food ingredients. For purposes of  
 23 this subdivision, a retailer provides utensils if any of the following applies:

1 a. The utensils are available to purchasers and the retailer's sales of prepared  
2 food under subds. 1. and 2., soft drinks, and alcoholic beverages at an establishment  
3 are more than 75 percent of the retailer's total sales at that establishment

*as determined under par. (c)*

4 b. For retailers not described under subd. 3. a., the retailer's customary practice  
5 is to give the utensils to the purchaser, not including plates, glasses, or cups that are  
6 necessary for the purchaser to receive the food and food ingredients and that the  
7 retailer makes available to the purchaser.

8 4. Except as provided in par. (b), 2 or more food ingredients mixed or combined  
9 by a retailer for sale as a single item.

10 (b) "Prepared food" under par. (a) 2. and 4. does not include:

11 1. Two or more food ingredients mixed or combined by a retailer for sale as a  
12 single item, if the retailer's primary classification in the ~~1997~~ <sup>2002</sup> North American  
13 Industry Classification System, published by the federal office of management and  
14 budget, is manufacturing under ~~subsector~~ <sup>subsector</sup> 311, not including bakeries and tortilla  
15 manufacturing under industry group number 3118.

16 2. Two or more food ingredients mixed or combined by a retailer for sale as a  
17 single item, sold unheated, and sold by volume or weight.

18 3. Bakery items made by a retailer, including breads, rolls, pastries, buns,  
19 biscuits, bagels, croissants, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,  
20 cookies, and tortillas.

21 4. Food and food ingredients that are only sliced, repackaged, or pasteurized  
22 by a retailer.

23 5. Eggs, fish, meat, and poultry, and foods containing any of them in raw form,  
24 that require cooking by the consumer, as recommended by the food and drug

~~DO NOT INSERT 14-24~~

1 administration in chapter 3, part 401.11 of its food code to prevent food-borne  
2 illnesses.

3 **SECTION 32.** 77.51 (10n) of the statutes is created to read:

4 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by  
5 any oral, written, electronic, or other means of transmission and by a person who is  
6 authorized by the laws of this state to issue such an order, formula, or recipe.

7 **SECTION 33.** 77.51 (11m) of the statutes is created to read:

8 77.51 (11m) "Prosthetic device" means a device, including the repair parts and  
9 replacement parts for the device, that is placed in or worn on the body to artificially  
10 replace a missing portion of the body; to prevent or correct a physical deformity or  
11 malfunction; or to support a weak or deformed portion of the body.

12 **SECTION 34.** 77.51 (12m) of the statutes is created to read:

13 77.51 (12m) (a) "Purchase price" means the total amount of consideration,  
14 including cash, credit, property, and services, for which tangible personal property  
15 or services are sold, leased, or rented, valued in money, whether paid in money or  
16 otherwise, without any deduction for the following:

- 17 1. The seller's cost of the property sold.
- 18 2. The cost of materials used, labor or service cost, interest, losses, all costs of  
19 transportation to the seller, all taxes imposed on the seller, and any other expense  
20 of the seller.
- 21 3. Charges by the seller for any services necessary to complete a sale, not  
22 including delivery and installation charges.
- 23 4. a. Delivery charges, except as provided in par. (b) 4.  
24 b. If a shipment includes property that is subject to tax under this subchapter  
25 and property that is not subject to tax under this subchapter, the amount of the

1 delivery charge allocated to the property that is subject to tax under this subchapter  
2 based on the total purchase price of the property that is subject to tax under this  
3 subchapter as compared to the total purchase price of all the property or on the total  
4 weight of the property that is subject to tax under this subchapter as compared to the  
5 total weight of all the property.

6 5. Installation charges.

7 6. The value of exempt tangible personal property, if the exempt tangible  
8 personal property is sold as a bundled transaction that includes taxable tangible  
9 personal property and sold by the seller as a single product or piece of merchandise.

10 (b) "Purchase price" does not include:

11 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a  
12 3rd party, except as provided in par. (c); that are allowed by a seller; and that are  
13 taken by a purchaser on a sale.

14 2. Interest, financing, and carrying charges from credit that is extended on a  
15 sale of personal property or services, if the amount of the interest, financing, or  
16 carrying charges is separately stated on the invoice, bill of sale, or similar document  
17 that the seller gives to the purchaser.

18 3. Any taxes legally imposed directly on the purchaser that are separately  
19 stated on the invoice, bill of sale, or similar document that the seller gives to the  
20 purchaser.

21 4. Delivery charges for direct mail.

22 5. In all transactions in which an article of tangible personal property is traded  
23 toward the purchase of an article of greater value, the amount of the purchase price  
24 that represents the amount allowed for the article traded, except that this  
25 subdivision does not apply to any transaction to which subd. 7. or 8. applies.

1           6. If a person who purchases a motor vehicle presents a statement issued under  
2 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the  
3 statement to the seller within 60 days from the date of receiving a refund under s.  
4 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under  
5 s. 218.0171 (2) (cq), but not to exceed the purchase price from the sale of the motor  
6 vehicle. This subdivision applies only to the first motor vehicle purchased by a  
7 person after receiving a refund under s. 218.0171 (2) (b) 2. b.

8           7. Thirty-five percent of the purchase price, excluding trade-ins, of a new  
9 mobile home, as defined in s. 340.01 (29), that is a primary housing unit or of a new  
10 mobile home, as defined in s. 340.01 (29), that is transported in 2 unattached sections  
11 if the total size of the combined sections, not including additions and attachments,  
12 is at least 984 square feet measured when the sections are ready for transport. This  
13 subdivision does not apply to a lease or rental.

14           8. At the retailer's option; except that after the retailer chooses an option the  
15 retailer may not use the other option for other sales without the department's written  
16 approval; either 35 percent of the purchase price of a manufactured building, as  
17 defined in s. 101.71 (6), or an amount equal to the purchase price of the manufactured  
18 building minus the cost of materials that become an ingredient or component part  
19 of the building.

20           (c) "Purchase price" includes consideration received by the seller from a 3rd  
21 party, if:

22           1. The seller actually receives consideration from a 3rd party, other than the  
23 purchaser, and the consideration is directly related to a price reduction or discount  
24 on a sale.

25           2. The seller is obliged to pass the price reduction or discount to the purchaser.

1           3. The amount of the consideration that is attributable to the sale is a fixed  
2 amount and the seller is able to determine that amount at the time of the sale to the  
3 purchaser.

4           4. The purchaser presents a coupon, certificate, or other documentation to the  
5 seller to claim the price reduction or discount, if the coupon, certificate, or other  
6 documentation is authorized, distributed, or granted by the 3rd party with the  
7 understanding that the 3rd party will reimburse the seller for the amount of the price  
8 reduction or discount.

9           5. The purchaser identifies himself or herself to the seller as a member of a  
10 group or organization that may claim the price reduction or discount.

11           6. The seller provides an invoice to the purchaser, or the purchaser presents a  
12 coupon, certificate, or other documentation to the seller, that identifies the price  
13 reduction or discount as a 3rd-party price reduction or discount.

14           **SECTION 35.** 77.51 (12p) of the statutes is created to read:

15           77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal  
16 property is made or to whom a service is furnished.

17           **SECTION 36.** 77.51 (13) (o) of the statutes is amended to read:

18           77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.  
19 As used in this paragraph, "animal" includes livestock, pets and poultry.

20           **SECTION 37.** 77.51 (13g) (intro.) of the statutes is amended to read:

21           77.51 (13g) (intro.) Except as provided in sub. (13h), "retailer engaged in  
22 business in this state", ~~unless otherwise limited by federal statute,~~ for purposes of  
23 the use tax, means any of the following:

24           **SECTION 38.** 77.51 (13g) (c) of the statutes is created to read:

1           77.51 (13g) (c) Any retailer selling tangible personal property or taxable  
2 services for storage, use, or other consumption in this state, unless otherwise limited  
3 by federal law.

4           **SECTION 39.** 77.51 (13rm) of the statutes is created to read:

5           77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental  
6 for any purpose other than resale, sublease, or subrent.

7           **SECTION 40.** 77.51 (14) (intro.) of the statutes is amended to read:

8           77.51 (14) (intro.) "Sale", "~~sale, lease or rental~~", "~~retail sale~~", "~~sale at retail~~", or  
9 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the  
10 ownership of, title to, possession of, or enjoyment of tangible personal property or  
11 services for use or consumption but not for resale as tangible personal property or  
12 services and includes:

13           **SECTION 41.** 77.51 (14) (a) of the statutes is amended to read:

14           77.51 (14) (a) Any sale at an auction in respect to tangible personal property  
15 which is sold to a successful bidder. ~~The proceeds from, except~~ the sale of property  
16 sold at auction which is bid in by the seller and on which title does not pass to a new  
17 purchaser shall be deducted from the gross proceeds of the sale and the tax paid only  
18 ~~on the net proceeds.~~

19           **SECTION 42.** 77.51 (14) (d) of the statutes is repealed.

20           **SECTION 43.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

21           **SECTION 44.** 77.51 (14) (i) of the statutes is repealed.

22           **SECTION 45.** 77.51 (14) (j) of the statutes is amended to read:

23           77.51 (14) (j) The granting of possession of tangible personal property by a  
24 lessor to a lessee, or to another person at the direction of the lessee. Such a  
25 transaction is deemed a continuing sale in this state ~~by the lessor for the duration~~

1 of the lease as respects any period of time the leased property is situated in this state,  
2 irrespective of the time or place of delivery of the property to the lessee or such other  
3 person.

4 SECTION 46. 77.51 (14) (k) of the statutes is repealed.

5 SECTION 47. 77.51 (14) (L) of the statutes is repealed.

6 SECTION 48. 77.51 (14r) of the statutes is repealed.

7 SECTION 49. 77.51 (15) of the statutes is repealed.

8 SECTION 50. 77.51 (15a) of the statutes is created to read:

9 77.51 (15a) (a) "Sales, lease, or rental for resale, sublease, or subrent" includes  
10 transfers of tangible personal property, ~~audiovisual works, finished artwork, literary~~  
11 ~~works, and audio works~~ to a service provider that the service provider transfers in  
12 conjunction with but not incidental to the selling, performing, or furnishing of any  
13 service, and transfers of tangible personal property, ~~audiovisual works, finished~~  
14 ~~artwork, literary works, and audio works~~ to a service provider that the service  
15 provider physically transfers in conjunction with the selling, performing, or  
16 furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20. This paragraph does not  
17 apply to sub. (2).

18 (b) "Sales, lease, or rental for resale, sublease, or subrent" does not include any  
19 of the following:

20 1. The sale of building materials, supplies, and equipment to owners,  
21 contractors, subcontractors, or builders for use in real property construction  
22 activities or the alteration, repair, or improvement of real property, regardless of the  
23 quantity of such materials, supplies, and equipment sold.

24 2. Any sale of tangible personal property to a purchaser even though such  
25 property may be used or consumed by some other person to whom such purchaser

1 transfers the tangible personal property without valuable consideration, such as  
2 gifts, and advertising specialties distributed gratis apart from the sale of other  
3 tangible personal property or service.

4 3. Transfers of tangible personal property, ~~audiovisual works, finished~~  
5 ~~artwork, literary works, and audio works~~ to a service provider that the service  
6 provider transfers in conjunction with the selling, performing, or furnishing of any  
7 service, if the tangible personal property, ~~audiovisual work, finished artwork,~~  
8 ~~literary work, and audio work~~ is incidental to the service, unless the service provider  
9 is selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.

10 SECTION 51. 77.51 (15b) of the statutes is created to read:

11 77.51 (15b) (a) "Sales price" means the total amount of consideration, including  
12 cash, credit, property, and services, for which tangible personal property or services  
13 are sold, leased, or rented, valued in money, whether received in money or otherwise,  
14 without any deduction for the following:

- 15 1. The seller's cost of the property sold.
- 16 2. The cost of materials used, labor or service cost, interest, losses, all costs of  
17 transportation to the seller, all taxes imposed on the seller, and any other expense  
18 of the seller.
- 19 3. Charges by the seller for any services necessary to complete a sale, not  
20 including delivery and installation charges.
- 21 4. a. Delivery charges, except as provided in par. (b) 4.  
22 b. If a shipment includes property that is subject to tax under this subchapter  
23 and property that is not subject to tax under this subchapter, the amount of the  
24 delivery charge allocated to the property that is subject to tax under this subchapter  
25 based on the total sales price of the property that is subject to tax under this

1 subchapter as compared to the total sales price of all the property or on the total  
2 weight of the property that is subject to tax under this subchapter as compared to the  
3 total weight of all the property.

4 5. Installation charges.

5 6. The value of exempt tangible personal property, if the exempt tangible  
6 personal property is sold as a bundled transaction that includes taxable tangible  
7 personal property and sold by the seller as a single product or piece of merchandise.

8 (b) "Sales price" does not include:

9 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a  
10 3rd party, except as provided in par. (c); that are allowed by a seller; and that are  
11 taken by a purchaser on a sale.

12 2. Interest, financing, and carrying charges from credit that is extended on a  
13 sale of tangible personal property or services, if the amount of the interest, financing,  
14 or carrying charges is separately stated on the invoice, bill of sale, or similar  
15 document that the seller gives to the purchaser.

16 3. Any taxes legally imposed directly on the purchaser that are separately  
17 stated on the invoice, bill of sale, or similar document that the seller gives to the  
18 purchaser.

19 4. Delivery charges for direct mail.

20 5. In all transactions in which an article of tangible personal property is traded  
21 toward the purchase of an article of greater value, the amount of the sales price that  
22 represents the amount allowed for the article traded, except that this subdivision  
23 does not apply to any transaction to which subd. 7. or 8. applies.

24 6. If a person who purchases a motor vehicle presents a statement issued under  
25 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the

1 statement to the seller within 60 days from the date of receiving a refund under s.  
2 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under  
3 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.  
4 This subdivision applies only to the first motor vehicle purchased by a person after  
5 receiving a refund under s. 218.0171 (2) (b) 2. b.

6 7. Thirty-five percent of the sales price, excluding trade-ins, of a new mobile  
7 home, as defined in s. 340.01 (29), that is a primary housing unit or of a new mobile  
8 home, as defined in s. 340.01 (29), that is transported in 2 unattached sections if the  
9 total size of the combined sections, not including additions and attachments, is at  
10 least 984 square feet measured when the sections are ready for transport. This  
11 subdivision does not apply to a lease or rental.

12 8. At the retailer's option; except that after the retailer chooses an option the  
13 retailer may not use the other option for other sales without the department's written  
14 approval; either 35 percent of the sales price of a manufactured building, as defined  
15 in s. 101.71 (6), or an amount equal to the sales price of the manufactured building  
16 minus the cost of materials that become an ingredient or component part of the  
17 building.

18 (c) "Sales price" includes consideration received by the seller from a 3rd party,  
19 if:

20 1. The seller actually receives consideration from a 3rd party, other than the  
21 purchaser, and the consideration is directly related to a price reduction or discount  
22 on a sale.

23 2. The seller is obliged to pass the price reduction or discount to the purchaser.

1           3. The amount of the consideration that is attributable to the sale is a fixed  
2 amount and the seller is able to determine that amount at the time of the sale to the  
3 purchaser.

4           4. Any of the following also applies:

5           a. The purchaser presents a coupon, certificate, or other documentation to the  
6 seller to claim the price reduction or discount, if the coupon, certificate, or other  
7 documentation is authorized, distributed, or granted by the 3rd party with the  
8 understanding that the 3rd party will reimburse the seller for the amount of the price  
9 reduction or discount.

10          b. The purchaser identifies himself or herself to the seller as a member of a  
11 group or organization that may claim the price reduction or discount.

12          c. The seller provides an invoice to the purchaser, or the purchaser presents a  
13 coupon, certificate, or other documentation to the seller, that identifies the price  
14 reduction or discount as a 3rd-party price reduction or discount.

15          **SECTION 52.** 77.51 (17) of the statutes is amended to read:

16          77.51 (17) "Seller" includes every person selling, leasing, or renting tangible  
17 personal property or selling, performing, or furnishing services of a kind the gross  
18 receipts sales price from the sale, lease, rental, performance, or furnishing of which  
19 are is required to be included in the measure of the sales tax.

20          **SECTION 53.** 77.51 (17m) of the statutes is repealed and recreated to read:

21          77.51 (17m) "Service address" means any of the following:

22          (a) The location of the telecommunications equipment to which a customer's  
23 telecommunications service is charged and from which the telecommunications  
24 service originates or terminates, regardless of where the telecommunications service  
25 is billed or paid.

1 (b) If the location described under par. (a) is not known by the seller who sells  
2 the telecommunications service, the location where the signal of the  
3 telecommunications service originates, as identified by the seller's  
4 telecommunications system or, if the signal is not transmitted by the seller's  
5 telecommunications system, by information that the seller received from the seller's  
6 service provider.

7 (c) If the locations described under pars. (a) and (b) are not known by the seller  
8 who sells the telecommunications service, the customer's place of primary use.

9 **SECTION 54.** 77.51 (17w) of the statutes is created to read:

10 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent  
11 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not  
12 include a beverage that contains milk or milk products; soy, rice, or similar milk  
13 substitutes; or more than 50 percent vegetable or fruit juice by volume.

14 **SECTION 55.** 77.51 (20) of the statutes is amended to read:

15 77.51 (20) "Tangible personal property" means all tangible personal property  
16 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~  
17 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,  
18 natural gas, steam and, water, and also leased property affixed to realty if the lessor  
19 has the right to remove the property upon breach or termination of the lease  
20 agreement, unless the lessor of the property is also the lessor of the realty to which  
21 the property is affixed. "Tangible personal property" also includes coins and stamps  
22 of the United States sold or traded as collectors' items above their face value and  
23 ~~computer programs except custom computer programs.~~ <sup>rewritten computer</sup>  
~~computer programs except custom computer programs.~~ <sup>rewritten computer</sup>  
<sup>software</sup>

24 **SECTION 56.** 77.51 (21) of the statutes is amended to read:

1           77.51 (21) "Taxpayer" means the person who is required to pay, collect, or  
2           account for or who is otherwise directly interested in the taxes imposed by this  
3           subchapter, including a certified service provider.

7 - INSERT  
26-3

4           **SECTION 57.** 77.51 (21p) of the statutes is created to read:

5           77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,  
6           and any other item that contains tobacco.

7           **SECTION 58.** 77.51 (22) (bm) of the statutes is created to read:

8           77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible  
9           personal property or taxable services" includes distributing, selecting recipients,  
10          determining mailing schedules, or otherwise directing the distribution,  
11          dissemination, or disposal of tangible personal property or taxable services,  
12          regardless of whether the purchaser of such property or services owns or physically  
13          possesses, in this state, the property or services.

7 - INSERT  
26-13

14          **SECTION 59.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and amended  
15          to read:

16          77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible  
17          personal property, including accessories, components, attachments, parts, supplies  
18          and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the  
19          ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal  
20          property, including accessories, components, attachments, parts, supplies and  
21          materials, sold, leased or rented at retail in this state.

22          **SECTION 60.** 77.52 (1) (b) of the statutes is created to read:

23          77.52 (1) (b) For the privilege of selling, licensing, leasing, or renting  
24          audiovisual works, finished artwork, literary works, and audio works that are  
25          delivered electronically to a purchaser, a tax is imposed on all retailers at the rate

1 of 5 percent of the sale price from the sale, license, lease, or rental of the audiovisual  
2 works, finished artwork, literary works, and audio works.

3 **SECTION 61.** 77.52 (1) (c) of the statutes is created to read:

4 77.52 (1) (c) For the privilege of selling at retail coins and stamps of the United  
5 States that are sold or traded as collectors' items above their face value, a tax is  
6 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such  
7 coins and stamps.

8 **SECTION 62.** 77.52 (1) (d) of the statutes is created to read:

9 77.52 (1) (d) For the privilege of leasing property that is affixed to real property,  
10 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease  
11 of such property, if the lessor has the right to remove the leased property upon breach  
12 or termination of the lease agreement, unless the lessor of the leased property is also  
13 the lessor of the real property to which the leased property is affixed.

14 **SECTION 63.** 77.52 (2) (intro.) of the statutes is amended to read:

15 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing  
16 the services described under par. (a) at retail in this state to consumers or users, a  
17 tax is imposed upon all persons selling, licensing, performing or furnishing the  
18 services at the rate of 5% of the ~~gross receipts~~ sales price from the sale, license,  
19 performance or furnishing of the services.

20 **SECTION 64.** 77.52 (2) (a) 5. a. of the statutes is amended to read:

21 77.52 (2) (a) 5. a. The sale of telecommunications services, except services  
22 subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either originate or  
23 terminate in this state; except services that are obtained by means of a toll-free  
24 number, that originate outside this state and that terminate in this state; and are  
25 charged to a service address in this state, regardless of the location where that charge

1 is billed or paid; and the sale of the rights to purchase telecommunications services,  
 2 including purchasing reauthorization numbers, by paying in advance and by using  
 3 an access number and authorization code a prepaid calling service as defined in s.  
 4 77.522 (3) (a) 11., except sales that are subject to subd. 5. b.

NOTE  
28-4

5 SECTION 65. 77.52 (2) (a) 10. of the statutes is amended to read:

6 77.52 (2) (a) 10. Except for services provided by veterinarians and except for  
 7 installing or applying tangible personal property that, subject to par. (ag), when  
 8 installed or applied, will constitute an addition or capital improvement of real  
 9 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,  
 10 inspection, and maintenance of all items of tangible personal property unless, at the  
 11 time of that the repair, service, alteration, fitting, cleaning, painting, coating,  
 12 towing, inspection, or maintenance, a sale in this state of the type of property  
 13 repaired, serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or  
 14 maintained would have been exempt to the customer from sales taxation under this  
 15 subchapter, other than the exempt sale of a motor vehicle or truck body to a  
 16 nonresident under s. 77.54 (5) (a) and other than nontaxable sales under s. 77.51  
 17 (14r) juvenile 77.522 or unless the repair, service, alteration, fitting, cleaning,  
 18 painting, coating, towing, inspection, or maintenance is provided under a contract  
 19 that is subject to tax under subd. 13m. The tax imposed under this subsection applies  
 20 to the repair, service, alteration, fitting, cleaning, painting, coating, towing,  
 21 inspection, or maintenance of items listed in par. (ag), regardless of whether the  
 22 installation or application of tangible personal property related to the items is an  
 23 addition to or a capital improvement of real property, except that the tax imposed  
 24 under this subsection does not apply to the original installation or the complete

1 replacement of an item listed in par. (ag), if that the installation or replacement is  
2 a real property construction activity under s. 77.51 (2).

3 **SECTION 66.** 77.52 (2) (a) 13m. of the statutes is created to read:

4 77.52 (2) (a) 13m. The sale of contracts, including service contracts,  
5 maintenance agreements, and warranties, that provide, in whole or in part, for the  
6 future performance of or payment for the repair, service, alteration, fitting, cleaning,  
7 painting, coating, towing, inspection, or maintenance of tangible personal property,  
8 unless the sale, lease, or rental in this state of the property to which the contract  
9 relates is or was exempt, to the purchaser of the contract, from taxation under this  
10 subchapter.

11 **SECTION 67.** 77.52 (3m) of the statutes is repealed. ✓

12 **SECTION 68.** 77.52 (6) of the statutes is repealed. ✓  
7 *sec #. np; 77.52 (3m) ✓*

13 **SECTION 69.** 77.52 (7) of the statutes is amended to read:

14 77.52 (7) Every person desiring to operate as a seller within this state who  
15 holds a valid certificate under s. 73.03 (50) shall file with the department an  
16 application for a permit for each place of operations. Every application for a permit  
17 shall be made upon a form prescribed by the department and shall set forth the name  
18 under which the applicant intends to operate, the location of the applicant's place of  
19 operations, and the other information that the department requires. The Except as  
20 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;  
21 in the case of sellers other than sole proprietors, the application shall be signed by  
22 the person authorized to act on behalf of such sellers. A nonprofit organization that  
23 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's  
24 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices  
25 received after it is required to obtain that permit. If that organization becomes

1 eligible later for the exemption under s. 77.54 (7m) except for its possession of a  
2 seller's permit, it may surrender that permit.

3 **SECTION 70.** 77.52 (7b) of the statutes is created to read:

4 77.52 (7b) Any person who may register under sub. (7) may designate an agent,  
5 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the  
6 manner prescribed by the department.

7 **SECTION 71.** 77.52 (13) of the statutes is amended to read:

8 77.52 (13) For the purpose of the proper administration of this section and to  
9 prevent evasion of the sales tax it shall be presumed that all receipts are subject to  
10 the tax until the contrary is established. The burden of proving that a sale of tangible  
11 personal property or services is not a taxable sale at retail is upon the person who  
12 makes the sale unless that person takes from the purchaser ~~a~~ an electronic or a  
13 paper certificate, in a manner prescribed by the department, to the effect that the  
14 property or service is purchased for resale or is otherwise exempt; ~~except that no~~  
15 ~~certificate is required for sales of cattle, sheep, goats, and pigs that are sold at an~~  
16 ~~animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales~~  
17 ~~of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in~~  
18 ~~or from which the commodity is deliverable on a contract for future delivery subject~~  
19 ~~to the rules of a commodity market regulated by the U.S. commodity futures trading~~  
20 ~~commission if upon the sale the commodity is not removed from the warehouse~~ the  
21 sale of tangible personal property that is exempt under s. 77.54 (7), (7m), (8), (10),  
22 (11), (14), (14b), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44),  
23 (45), and (46), except as provided in s. 77.54 (30) (e) and (f).

24 **SECTION 72.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are consolidated,  
25 renumbered 77.52 (14) (a) and amended to read:

1           77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the  
2           burden of proof only if any of the following is true: ~~1. The certificate is taken in good~~  
3           ~~faith the seller obtains a fully completed exemption certificate, or the information~~  
4           ~~required to prove the exemption, from a person who is engaged as a seller of tangible~~  
5           ~~personal property or taxable services and who holds the permit provided for in sub.~~  
6           ~~(9) and who, at the time of purchasing purchaser no later than 90 days after the date~~  
7           ~~of the sale of the tangible personal property or services, intends to sell it in the~~  
8           ~~regular course of operations or is unable to ascertain at the time of purchase whether~~  
9           ~~the property or service will be sold or will be used for some other purpose. (b) except~~  
10           ~~as provided in par. (am). The certificate under sub. (13) shall not relieve the seller~~  
11           ~~of the burden of proof if the seller fraudulently fails to collect sales tax, solicits the~~  
12           ~~purchaser to claim an unlawful exemption, accepts an exemption certificate from a~~  
13           ~~purchaser who claims to be an entity that is not subject to the taxes imposed under~~  
14           ~~this subchapter, if the subject of the transaction sought to be covered by the~~  
15           ~~exemption certificate is received by the purchaser at a location operated by the seller~~  
16           ~~in this state and the exemption certificate clearly and affirmatively indicates that~~  
17           ~~the claimed exemption is not available in this state, or accepts an exemption~~  
18           ~~certificate claiming multiple points of use for tangible personal property, except~~  
19           ~~computer software under s. 77.522 (1) (d), (e), or (f).~~ The certificate referred to in sub.  
20           (13) shall be signed by and bear the name and address of ~~provide information that~~  
21           ~~identifies~~ the purchaser, and shall indicate the ~~general character of the tangible~~  
22           ~~personal property or service sold by the purchaser and the basis for the claimed~~  
23           ~~exemption and a paper certificate shall be signed by the purchaser. The certificate~~  
24           shall be in such form as the department prescribes by rule.

25           **SECTION 73.** 77.52 (14) (a) 2. of the statutes is repealed.

1           **SECTION 74.** 77.52 (14) (am) of the statutes is created to read:

2           77.52 (14) (am) If the seller has not obtained a fully completed exemption  
3 certificate or the information required to prove the exemption, as provided in par. (a),  
4 the seller may, no later than 120 days after the department requests that the seller  
5 substantiate the exemption, either provide proof of the exemption to the department  
6 by other means or obtain, in good faith, a fully completed exemption certificate from  
7 the purchaser.

8           **SECTION 75.** 77.52 (15) of the statutes is amended to read:

9           77.52 (15) If a purchaser who ~~gives a resale certificate~~ purchases tangible  
10 personal property or taxable services without paying a sales tax or use tax on such  
11 purchase because such property or services were for resale makes any use of the  
12 property or services other than retention, demonstration or display while holding it  
13 the property or services for sale, lease or rental in the regular course of the  
14 purchaser's operations, the use shall be taxable to the purchaser under s. 77.53 as  
15 of the time that the property is or services are first used by the purchaser, and the  
16 sales purchase price of the property or services to the purchaser shall be the measure  
17 of the tax. ~~Only when there is an unsatisfied use tax liability on this basis because~~  
18 ~~the seller has provided incorrect information about that transaction to the~~  
19 ~~department shall the seller be liable for sales tax with respect to the sale of the~~  
20 ~~property to the purchaser.~~

21           **SECTION 76.** 77.522 of the statutes is created to read:

22           **77.522 Sourcing. (1) GENERAL.** (a) In this section:

23           1. "Direct mail form" means a form for direct mail prescribed by the  
24 department.

25           2. "Product" includes tangible personal property, digital goods, and services.

1           3. "Receive" means taking possession of tangible personal property; making  
2 first use of services; or taking possession or making first use of digital goods,  
3 whichever comes first. "Receive" does not include a shipping company taking  
4 possession of tangible personal property on a purchaser's behalf.

5           4. "Transportation equipment" means any of the following:

6           a. Locomotives and railcars that are used to carry persons or property in  
7 interstate commerce.

8           b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001  
9 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are  
10 registered under the international registration plan and operated under the  
11 authority of a carrier that is authorized by the federal government to carry persons  
12 or property in interstate commerce.

13           c. Aircraft that is operated by air carriers that are authorized by the federal  
14 government or a foreign authority to carry persons or property in interstate or  
15 foreign commerce.

16           d. Containers that are designed for use on the vehicles described in subd. 4. a.  
17 to c. and component parts attached to or secured on such vehicles.

18           (b) Except as provided in pars. (c) ~~(d)~~ and subs. (2), (3), and (4), the location  
19 of a sale is determined as follows:

20           1. If a purchaser receives the product at a seller's business location, the sale  
21 occurs at that business location.

22           2. If a purchaser does not receive the product at a seller's business location, the  
23 sale occurs at the location where the purchaser, or the purchaser's designated donee,  
24 receives the product, including the location indicated by the instructions known to  
25 the seller for delivery to the purchaser or the purchaser's designated donee.

1           3. If the location of a sale of a product cannot be determined under subds. 1. and  
2           2., the sale occurs at the purchaser's address as indicated by the seller's business  
3           records, if the records are maintained in the ordinary course of the seller's business  
4           and if using that address to establish the location of a sale is not in bad faith.

5           4. If the location of a sale of a product cannot be determined under subds. 1. to  
6           3., the sale occurs at the purchaser's address as obtained during the consummation  
7           of the sale, including the address indicated on the purchaser's payment instrument,  
8           if no other address is available and if using that address is not in bad faith.

9           5. If the location of a sale of a product cannot be determined under subds. 1. to  
10          4., the location of the sale is determined as follows:

11          a. If the item sold is tangible personal property, the sale occurs at the location  
12          from which the tangible personal property is shipped.

13          b. If the item sold is a digital good, or computer software delivered  
14          electronically, the sale occurs at the location from which the digital good or computer  
15          software was first available for transmission by the seller.

16          c. If a service is sold, the sale occurs at the location from which the service was  
17          provided.

18          (c) The sale of direct mail occurs at the location from which the direct mail is  
19          shipped, if the purchaser does not provide to the seller a direct pay permit, a direct  
20          mail form, or other information that indicates the appropriate taxing jurisdiction to  
21          which the direct mail is delivered to the ultimate recipients. If the purchaser  
22          provides a direct mail form or direct pay permit to the seller, the purchaser shall pay  
23          or remit, as appropriate, to the department the tax imposed under s. 77.53 on all  
24          purchases for which the tax is due and the seller is relieved from liability for  
25          collecting such tax or that satisfy the requirements under par. (e) or (f). A direct mail

1 form provided to a seller under this paragraph shall remain effective for all sales by  
2 the seller who received the form to the purchaser who provided the form, unless the  
3 purchaser revokes the form in writing and provides such revocation to the seller.

4 (d) 1. A business purchaser who purchases a service, digital good, or computer  
5 software, including computer software that is delivered electronically, by  
6 load-and-leave, or in a tangible form, but not including computer software received  
7 in person by a business purchaser at any of the seller's business locations; who does  
8 not hold a direct pay permit under s. 77.52 (17m); and who knows at the time of  
9 purchase that the service, good, or software will be concurrently available for use in  
10 more than one taxing jurisdiction shall provide to the seller an exemption certificate  
11 claiming multiple points of use, in conjunction with the purchase, and shall pay or  
12 remit, as appropriate, to the department the tax imposed under s. 77.53 on all  
13 purchases for which the tax is due or that satisfy the requirements under par. (e) or  
14 (f).

15 2. To apportion the amount of the tax due multiple taxing jurisdictions, a  
16 purchaser who provides an exemption certificate under subd. 1. shall use any  
17 reasonable, consistent, and uniform apportionment method supported by the  
18 purchaser's books and records that are kept in connection with the sale.

19 3. An exemption certificate provided under subd. 1. shall remain effective for  
20 all sales by the seller who received the certificate to the purchaser who provided the  
21 certificate, unless the purchaser revokes the certificate in writing and provides such  
22 a revocation to the seller.

23 4. A business purchaser who purchases a service, digital good, or computer  
24 software, including computer software that is delivered electronically, by  
25 load-and-leave, or in a tangible form, but not including computer software received

1 in person by a business purchaser at any of the seller's business locations; who holds  
2 a direct pay permit under s. 77.52 (17m), and who knows at the time of purchase that  
3 the service, good, or software will be concurrently available for use in more than one  
4 taxing jurisdiction is not required to provide to the seller an exemption certificate  
5 claiming multiple points of use, but shall collect, pay, or remit, as appropriate, to the  
6 department the tax imposed under s. 77.53 ~~(1)~~ and shall use the apportionment  
7 method described under subd. 2. to apportion the tax due multiple taxing  
8 jurisdictions.

9 5. A seller who receives an exemption certificate claiming multiple points of use  
10 under this paragraph is relieved from liability for collecting the tax imposed under  
11 s. 77.53 on purchases related to that certificate.

12 (e) If a seller knows that the service, digital good, or computer software will be  
13 concurrently available for use in more than one taxing jurisdiction, but the  
14 purchaser does not provide an exemption certificate claiming multiple points of use  
15 as required under par. (d) 1., the seller may work with the purchaser to determine  
16 the correct apportionment. The seller and purchaser may use any reasonable,  
17 consistent, and uniform apportionment method that is supported by the seller's and  
18 purchaser's books and records, as those books and records exist at the time the  
19 transaction is reported for sales and use tax purposes. If the purchaser certifies the  
20 accuracy of the apportionment method and the seller accepts the certification, the  
21 seller shall collect and remit the tax due, as provided under s. 77.53 (1n). In the  
22 absence of bad faith, the seller is relieved of any further obligation to collect tax on  
23 transactions for which the seller has collected tax pursuant to the information  
24 certified by the purchaser.

1 (f) If a seller knows that the service, digital good, or computer software will be  
2 concurrently available for use in more than one taxing jurisdiction, but the  
3 purchaser does not hold a direct pay permit and does not provide either an exemption  
4 certificate claiming multiple points of use as required under par. (d) 1. or the  
5 certification described under par. (e), the seller shall collect and remit the tax as  
6 provided under par. (b).

7 (2) LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regards  
8 to the first or only payment on the lease or rental, the lease or rental of tangible  
9 personal property occurs at the location determined under sub. (1) (b). If the property  
10 is moved from the place where the property was initially delivered, the subsequent  
11 periodic payments on the lease or rental occur at the property's primary location as  
12 indicated by an address for the property that is provided by the lessee and that is  
13 available to the lessor in records that the lessor maintains in the ordinary course of  
14 the lessor's business, if the use of such an address does not constitute bad faith. The  
15 location of a lease or rental as determined under this paragraph shall not be altered  
16 by any intermittent use of the property at different locations.

17 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,  
18 that are not transportation equipment, occurs at the primary location of such motor  
19 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property  
20 that is provided by the lessee and that is available to the lessor in records that the  
21 lessor maintains in the ordinary course of the lessor's business, if the use of such an  
22 address does not constitute bad faith, except that a lease or rental under this  
23 paragraph that requires only one payment occurs at the location determined under  
24 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall  
25 not be altered by any intermittent use of the property at different locations.

1 (c) The lease or rental of transportation equipment occurs at the location  
2 determined under sub. (1) (b).

3 (d) A license of tangible personal property shall be treated as a lease or rental  
4 of tangible personal property under this subsection.

5 **(3) TELECOMMUNICATIONS.** (a) In this subsection:

6 1. "Air-to-ground radiotelephone service" means a radio service in which  
7 common carriers are authorized to offer and provide radio telecommunications  
8 service for hire to subscribers in aircraft.

9 2. "Call-by-call basis" means any method of charging for telecommunications  
10 services by which the price of such services is measured by individual calls.

11 3. "Communications channel" means a physical or virtual path of  
12 communications over which signals are transmitted between or among customer  
13 channel termination points.

14 4. "Customer" means a person who enters into a contract with a seller of  
15 telecommunications services or, in any transaction for which the end user is not the  
16 person who entered into a contract with the seller of telecommunications services,  
17 the end user of the telecommunications services. "Customer" does not include a  
18 person who resells telecommunications services or, for mobile telecommunications  
19 services, a serving carrier under an agreement to serve a customer outside the home  
20 service provider's licensed service area.

21 5. "Customer channel termination point" means the location where a customer  
22 inputs or receives communications.

23 6. "End user" means an individual who uses a telecommunications service.

24 7. "Home service provider" means a home service provider under section 124  
25 (5) of P.L. 106-252.

1           8. "Mobile telecommunications service" means a mobile telecommunications  
2 service under 4 USC 116 to 126, as amended by P.L. 106-252.

3           9. "Place of primary use" means place of primary use, as determined under 4  
4 USC 116 to 126, as amended by P.L. 106-252.

5           10. "Postpaid calling service" means a telecommunications service that is  
6 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit  
7 card, debit card, or similar method, or by charging it to a telephone number that is  
8 not associated with the location where the telecommunications service originates or  
9 terminates. "Postpaid calling service" includes a telecommunications service, not  
10 including a prepaid wireless calling service, that would otherwise be a prepaid  
11 calling service except that the service provided to the customer is not exclusively a  
12 telecommunications service.

13           11. "Prepaid calling service" means the right to access ~~services that are~~  
14 exclusively telecommunications services, if that right is paid for in advance of  
15 providing such services, requires using an access number or authorization code to  
16 originate calls, and is sold in predetermined units or dollars that decrease with use  
17 in a known amount.

18           12. "Prepaid wireless calling service" means a telecommunications service that  
19 provides the right to utilize mobile wireless service as well as other  
20 nontelecommunications services, including the download of digital products  
21 delivered electronically, content, and ancillary services, and that is paid for prior to  
22 use and sold in predetermined dollar units whereby the number of units declines  
23 with use in a known amount.

24           13. "Private communication service" means a telecommunications service that  
25 entitles the customer to exclusive or priority use of a communications channel or

1 group of communications channels, regardless of the manner in which the  
2 communications channel or group of communications channels is connected, and  
3 includes switching capacity, extension lines, stations, and other associated services  
4 that are provided in connection with the use of such channel or channels.

5 14. "Radio service" means a communication service provided by the use of radio,  
6 including radiotelephone, radiotelegraph, paging, and facsimile service.

7 15. "Radiotelegraph service" means transmitting messages from one place to  
8 another by means of radio.

9 16. "Radiotelephone service" means transmitting sound from one place to  
10 another by means of radio.

11 (b) Except as provided in pars. (d) to (g), the sale of a telecommunications  
12 service that is sold on a call-by-call basis occurs in the taxing jurisdiction for sales  
13 and use tax purposes where the call originates and terminates, in the case of a call  
14 that originates and terminates in the same such jurisdiction, or the taxing  
15 jurisdiction for sales and use tax purposes where the call originates or terminates  
16 and where the service address is located.

17 (c) Except as provided in pars. (d) to (g), the sale of a telecommunications  
18 service that is sold on a basis other than a call-by-call basis occurs at the customer's  
19 place of primary use.

20 (d) The sale of a mobile telecommunications service, except an air-to-ground  
21 radiotelephone service and a prepaid calling service, occurs at the customer's place  
22 of primary use.

23 (e) The sale of a postpaid calling service occurs at the location where the signal  
24 of the telecommunications service originates, as first identified by the seller's  
25 telecommunications system or, if the signal is not transmitted by the seller's

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1 telecommunications system, by information that the seller received from the seller's  
2 service provider.

3 (f) The sale of a prepaid calling service or a prepaid wireless calling service  
4 occurs at the location determined under sub. (1) (b), except that, if the service is a  
5 prepaid wireless calling service and the location cannot be determined under sub. (1)  
6 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined  
7 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,  
8 as determined by the seller.

9 (g) 1. The sale of a private communication service for a separate charge related  
10 to a customer channel termination point occurs at the location of the customer  
11 channel termination point.

12 2. The sale of a private communication service in which all customer channel  
13 termination points are located entirely in one taxing jurisdiction for sales and use  
14 tax purposes occurs in the taxing jurisdiction in which the customer channel  
15 termination points are located.

16 3. If the segments are charged separately, the sale of a private communication  
17 service that represents segments of a communications channel between 2 customer  
18 channel termination points that are located in different taxing jurisdictions for sales  
19 and use tax purposes occurs in an equal percentage in both such jurisdictions.

20 4. If the segments are not charged separately, the sale of a private  
21 communication service for segments of a communications channel that is located in  
22 more than one taxing jurisdiction for sales and use tax purposes occurs in each such  
23 jurisdiction in a percentage determined by dividing the number of customer channel  
24 termination points in that jurisdiction by the number of customer channel

1 termination points in all jurisdictions where segments of the communications  
2 channel are located.

3 (4) FLORISTS. (a) For purposes of this subsection, "retail florist" means a person  
4 engaged in the business of selling cut flowers, floral arrangements, and potted plants  
5 and who prepares such flowers, floral arrangements, and potted plants. "Retail  
6 florist" does not include a person who sells cut flowers, floral arrangements, and  
7 potted plants primarily by mail or via the Internet.

8 (b) The sale of tangible personal property by a retail florist who takes an order  
9 from a purchaser occurs at the location where the retail florist takes the order, if the  
10 retail florist forwards the order to another retail florist who is at a location other than  
11 the location of the florist who takes the order and who transfers the tangible personal  
12 property to a person identified by the purchaser.

13 (c) This subsection does not apply to sales occurring on or after January 1, 2008.

14 **SECTION 77.** 77.523 (title) of the statutes is repealed.

15 **SECTION 78.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended  
16 to read:

17 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116  
18 to 126, as amended by P.L. 106-252, and if the customer believes that the amount  
19 of the tax assessed for the service under this subchapter or the place of primary use  
20 or taxing jurisdiction assigned to the service is erroneous, the customer may request  
21 that the service provider correct the alleged error by sending a written notice to the  
22 service provider. The notice shall include a description of the alleged error, the street  
23 address for the customer's place of primary use of the service, the account name and  
24 number of the service for which the customer seeks a correction, and any other  
25 information that the service provider reasonably requires to process the request.

1 Within 60 days from the date that a service provider receives a request under this  
2 ~~section paragraph~~, the service provider shall review its records to determine the  
3 customer's taxing jurisdiction. If the review indicates that there is no error as  
4 alleged, the service provider shall explain the findings of the review in writing to the  
5 customer. If the review indicates that there is an error as alleged, the service  
6 provider shall correct the error and shall refund or credit the amount of any tax  
7 collected erroneously, along with the related interest, as a result of the error from the  
8 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may  
9 take no other action against the service provider, or commence any action, to correct  
10 an alleged error in the amount of the tax assessed under this subchapter on a service  
11 that is subject to 4 USC 116 to 126, as amended by P.L. 106-252, or to correct an  
12 alleged error in the assigned place of primary use or taxing jurisdiction, unless the  
13 customer has exhausted his or her remedies under this ~~section paragraph~~.

14 **SECTION 79.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

15 **SECTION 80.** 77.524 (1) (ag) of the statutes is created to read:

16 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the  
17 seller before the states that are signatories to the agreement, as defined in 77.65 (2)  
18 (a).

19 ~~**SECTION 81.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g).~~

20 **SECTION 82.** 77.53 (1) of the statutes is amended to read:

21 77.53 (1) Except as provided in sub- subs. (1m) and (1n), an excise tax is levied  
22 and imposed on the use or consumption in this state of taxable services under s. 77.52  
23 purchased from any retailer, at the rate of 5% of the sales purchase price of those  
24 services; on the storage, use or other consumption in this state of tangible personal  
25 property purchased from any retailer, at the rate of 5% of the sales purchase price

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1 of that property; and on the storage, use or other consumption of tangible personal  
2 property manufactured, processed or otherwise altered, in or outside this state, by  
3 the person who stores, uses or consumes it, from material purchased from any  
4 retailer, at the rate of 5% of the sales purchase price of that material.

5 **SECTION 83.** 77.53 (1n) of the statutes is created to read:

6 77.53 (1n) For purposes of determining the tax due on the purchase of a service,  
7 a digital good, or computer software for which the purchaser provided to the seller,  
8 or could have provided to the seller, an exemption certificate claiming multiple points  
9 of use, the basis for the tax imposed under sub. (1) on such purchases is equal to the  
10 amount of the sale that is apportioned to this state under s. 77.522 (1) (d) 2.

11 **SECTION 84.** 77.53 (2) of the statutes is renumbered 77.53 (2) (a) and amended  
12 to read:

13 77.53 (2) (a) ~~Every~~ Except as provided in par. (b), every person storing, using  
14 or otherwise consuming in this state tangible personal property or taxable services  
15 purchased from a retailer is liable for the tax imposed by this section. The person's  
16 liability is not extinguished until the tax has been paid to this state, but a receipt with  
17 the tax separately stated from a retailer engaged in business in this state or from a  
18 retailer who is authorized by the department, under such rules as it prescribes, to  
19 collect the tax and who is regarded as a retailer engaged in business in this state for  
20 purposes of the tax imposed by this section given to the purchaser under sub. (3)  
21 relieves the purchaser from further liability for the tax to which the receipt refers.

22 **SECTION 85.** 77.53 (2) (b) of the statutes is created to read:

23 77.53 (2) (b) Every person who purchases a service, a digital good, or computer  
24 software and who provides or could have provided to a seller an exemption certificate  
25 claiming multiple points of use is liable for the tax imposed under this section, if the

1 benefit of the purchase is received in this state, regardless of where the service,  
2 digital good, or computer software is stored, used, or consumed. For purposes of this  
3 paragraph, the benefit of a purchase is received in this state to the same extent that  
4 the sale is apportioned to this state under s. 77.522 (1) (d) 2.

5 **SECTION 86.** 77.53 (3) of the statutes is amended to read:

6 77.53 (3) Every retailer engaged in business in this state and making sales of  
7 tangible personal property or taxable services ~~for delivery into this state or with~~  
8 ~~knowledge directly or indirectly that the property or service is intended for storage,~~  
9 ~~use or other consumption in that are sourced to this state under s. 77.522,~~ shall, at  
10 the time of making the sales ~~or, if the storage, use or other consumption of the~~  
11 ~~tangible personal property or taxable service is not then taxable under this section,~~  
12 ~~at the time the storage, use or other consumption becomes taxable,~~ collect the tax  
13 from the purchaser and give to the purchaser a receipt in the manner and form  
14 prescribed by the department.

15 **SECTION 87.** 77.53 (4) of the statutes is repealed.

16 **SECTION 88.** 77.53 (9) of the statutes is amended to read:

17 77.53 (9) Every retailer selling tangible personal property or taxable services  
18 for storage, use or other consumption in this state shall register with the department  
19 and obtain a certificate under s. 73.03 (50) and give the name and address of all  
20 agents operating in this state, the location of all distribution or sales houses or offices  
21 or other places of business in this state, the standard industrial code classification  
22 of each place of business in this state and the other information that the department  
23 requires. Any person who may register under this subsection may designate an  
24 agent, as defined in s. 77.524 (1) (ag), to register with the department under this  
25 subsection, in the manner prescribed by the department.

1           **SECTION 89.** 77.53 (9m) of the statutes is renumbered 77.53 (9m) (a).

2           **SECTION 90.** 77.53 (9m) (b) of the statutes is created to read:

3           77.53 **(9m)** (b) Any person who may register under par. (a) may designate an  
4 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),  
5 in the manner prescribed by the department.

6           **SECTION 91.** 77.53 (9m) (c) of the statutes is created to read:

7           77.53 **(9m)** (c) The registration under par. (a) by a person who is not otherwise  
8 required to collect any tax imposed by this subchapter shall not be used as a factor  
9 in determining whether the seller has nexus with this state for any tax at any time.

10          **SECTION 92.** 77.53 (10) of the statutes is amended to read:

11          77.53 **(10)** For the purpose of the proper administration of this section and to  
12 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that  
13 tangible personal property or taxable services sold by any person for delivery in this  
14 state is sold for storage, use, or other consumption in this state until the contrary is  
15 established. The burden of proving the contrary is upon the person who makes the  
16 sale unless that person takes from the purchaser ~~a~~ an electronic or paper certificate,  
17 in a manner prescribed by department, to the effect that the property or taxable  
18 service is purchased for resale, or otherwise exempt from the tax; ~~except that no~~  
19 ~~certificate is required for sales of cattle, sheep, goats, and pigs that are sold at an~~  
20 ~~animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales~~  
21 ~~of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in~~  
22 ~~or from which the commodity is deliverable on a contract for future delivery subject~~  
23 ~~to the rules of a commodity market regulated by the U.S. commodity futures trading~~  
24 ~~commission if upon the sale the commodity is not removed from the warehouse the~~  
25 sale of tangible personal property that is exempt under s. 77.54 (7), (7m), (8), (10),

1 (11), (14), (14b), (15), (17), (20n), (20p), (21), (22b), (22c), (30), (31), (32), (35), (36), (37),  
2 (42), (44), (45), and (46), except as provided in s. 77.54 (30) (e) and (f).

3 **SECTION 93.** 77.53 (11) of the statutes is renumbered 77.53 (11) (a) and  
4 amended to read:

5 77.53 (11) (a) The certificate referred to in under sub. (10) relieves the person  
6 selling the property or service from the burden of proof only if taken in good faith the  
7 seller obtains a fully completed exemption certificate, or the information required to  
8 prove the exemption, from a person who is engaged as a seller of tangible personal  
9 property or taxable services and who holds the permit provided for by s. 77.52 (9) and  
10 who, at the time of purchasing purchases no later than 90 days after the date of the  
11 sale of the tangible personal property or taxable service, intends to sell it in the  
12 regular course of operations or is unable to ascertain at the time of purchase whether  
13 the property or service will be sold or will be used for some other purpose, or if taken  
14 in good faith from a person claiming exemption, except as provided in par. (b). The  
15 certificate under sub. (10) shall not relieve the seller of the burden of proof if the seller  
16 fraudulently fails to collect sales tax or solicits the purchaser to claim an unlawful  
17 exemption, accepts an exemption certificate from a purchaser who claims to be an  
18 entity that is not subject to the taxes imposed under this subchapter, if the subject  
19 of the transaction sought to be covered by the exemption certificate is received by the  
20 purchaser at a location operated by the seller in this state and the exemption  
21 certificate clearly and affirmatively indicates that the claimed exemption is not  
22 available in this state, or accepts an exemption certificate claiming multiple points  
23 of use for tangible personal property, except computer software under s. 77.522 (1)  
24 (d), (e), or (f). The certificate shall be signed by and bear the name and address of  
25 provide information that identifies the purchaser and shall indicate the number of

1 the permit issued to the purchaser, the general character of tangible personal  
2 property or taxable service sold by the purchaser and the basis for the claimed  
3 exemption and a paper certificate shall be signed by the purchaser. The certificate  
4 shall be substantially in the form that the department prescribes by rule.

5 SECTION 94. 77.53 (11) (b) of the statutes is created to read:

6 77.53 (11) (b) If the seller has not obtained a fully completed exemption  
7 certificate or the information required to prove the exemption, as provided in par. (a),  
8 the seller may, no later than 120 days after the department requests that the seller  
9 substantiate the exemption, either provide proof of the exemption to the department  
10 by other means or obtain, in good faith, a fully completed exemption certificate from  
11 the purchaser.

12 SECTION 95. 77.53 (16) of the statutes is amended to read:

13 77.53 (16) If the purchase, rental or lease of tangible personal property or  
14 service subject to the tax imposed by this section was subject to a sales tax by another  
15 state in which the purchase was made, the amount of sales tax paid the other state  
16 shall be applied as a credit against and deducted from the tax, to the extent thereof,  
17 imposed by this section, except no credit may be applied against and deducted from  
18 a sales tax paid on the purchase of direct mail, if the direct mail purchaser did not  
19 provide to the seller a direct pay permit, a direct mail form, or other information that  
20 indicates the appropriate taxing jurisdiction to which the direct mail is delivered to  
21 the ultimate recipients. In this subsection "sales tax" includes a use or excise tax  
22 imposed on the use of tangible personal property or taxable service by the state in  
23 which the sale occurred and "state" includes the District of Columbia ~~but does not~~  
24 include <sup>and</sup> the commonwealth of Puerto Rico ~~or~~ <sup>↓</sup> the several territories organized by  
25 congress. but does not include

1           **SECTION 96.** 77.53 (17) of the statutes is amended to read:

2           77.53 (17) This section does not apply to tangible personal property purchased  
3 outside this state, as determined under s. 77.522, other than motor vehicles, boats,  
4 snowmobiles, mobile homes not exceeding 45 feet in length, trailers, semitrailers,  
5 all-terrain vehicles and airplanes registered or titled or required to be registered or  
6 titled in this state, which is brought into this state by a nondomiciliary for the  
7 person's own storage, use or other consumption while temporarily within this state  
8 when such property is not stored, used or otherwise consumed in this state in the  
9 conduct of a trade, occupation, business or profession or in the performance of  
10 personal services for wages or fees.

11           **SECTION 97.** 77.53 (17m) of the statutes is amended to read:

12           77.53 (17m) This section does not apply to a boat purchased in a state  
13 contiguous to this state, as determined under s. 77.522, by a person domiciled in that  
14 state if the boat is berthed in this state's boundary waters adjacent to the state of the  
15 domicile of the purchaser and if the transaction was an exempt occasional sale under  
16 the laws of the state in which the purchase was made.

17           **SECTION 98.** 77.53 (17r) (a) of the statutes is amended to read:

18           77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

19           **SECTION 99.** 77.53 (18) of the statutes is amended to read:

20           77.53 (18) This section does not apply to the storage, use or other consumption  
21 in this state of household goods for personal use or to aircraft, motor vehicles, boats,  
22 snowmobiles, mobile homes, trailers, semitrailers and all-terrain vehicles, for  
23 personal use, purchased by a nondomiciliary of this state outside this state, as  
24 determined under s. 77.522, 90 days or more before bringing the goods or property  
25 into this state in connection with a change of domicile to this state.

1           **SECTION 100.** 77.54 (1) of the statutes is amended to read:

2           77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or  
3 other consumption in this state of tangible personal property and services the ~~gross~~  
4 ~~receipts~~ sales price from the sale of which, or the storage, use or other consumption  
5 of which, this state is prohibited from taxing under the constitution or laws of the  
6 United States or under the constitution of this state.

7           **SECTION 101.** 77.54 (2) of the statutes is amended to read:

8           77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or  
9 other consumption of tangible personal property becoming an ingredient or  
10 component part of an article of tangible personal property or which is consumed or  
11 destroyed or loses its identity in the manufacture of tangible personal property in  
12 any form destined for sale, except as provided in sub. (30) (a) 6.

13           **SECTION 102.** 77.54 (2m) of the statutes is amended to read:

14           77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use  
15 or other consumption of tangible personal property or services that become an  
16 ingredient or component of shoppers guides, newspapers or periodicals or that are  
17 consumed or lose their identity in the manufacture of shoppers guides, newspapers  
18 or periodicals, whether or not the shoppers guides, newspapers or periodicals are  
19 transferred without charge to the recipient. In this subsection, “shoppers guides”,  
20 “newspapers” and “periodicals” have the meanings under sub. (15). The exemption  
21 under this subdivision does not apply to advertising supplements that are not  
22 newspapers.

23           **SECTION 103.** 77.54 (3) (a) of the statutes, as affected by 2005 Wisconsin Act  
24 366, is amended to read:

1           77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,  
2 or other consumption of tractors and machines, including accessories, attachments,  
3 and parts, lubricants, nonpowered equipment, and other tangible personal property  
4 that are used exclusively and directly, or are consumed or lose their identities, in the  
5 business of farming, including dairy farming, agriculture, horticulture, floriculture,  
6 silviculture, and custom farming services, but excluding automobiles, trucks, and  
7 other motor vehicles for highway use; excluding personal property that is attached  
8 to, fastened to, connected to, or built into real property or that becomes an addition  
9 to, component of, or capital improvement of real property; and excluding tangible  
10 personal property used or consumed in the erection of buildings or in the alteration,  
11 repair or improvement of real property, regardless of any contribution that that  
12 personal property makes to the production process in that building or real property  
13 and regardless of the extent to which that personal property functions as a machine,  
14 except as provided in par. (c).

15           **SECTION 104.** 77.54 (3m) (intro.) of the statutes, as affected by 2005 Wisconsin  
16 Act 366, is amended to read:

17           77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the  
18 storage, use or other consumption of the following items if they are used exclusively  
19 by the purchaser or user in the business of farming; including dairy farming,  
20 agriculture, horticulture, floriculture, silviculture, and custom farming services:

21           **SECTION 105.** 77.54 (4) of the statutes is amended to read:

22           77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal  
23 property, and the storage, use or other consumption in this state of tangible personal  
24 property which is the subject of any such sale, by any elementary school or secondary

1 school, exempted as such from payment of income or franchise tax under ch. 71,  
2 whether public or private.

3 **SECTION 106.** 77.54 (5) (intro.) of the statutes is amended to read:

4 77.54 (5) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,  
5 use or other consumption of:

6 **SECTION 107.** 77.54 (6) (intro.) of the statutes is amended to read:

7 77.54 (6) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,  
8 use or other consumption of:

9 **SECTION 108.** 77.54 (7m) of the statutes is amended to read:

10 77.54 (7m) Occasional sales of tangible personal property or services, including  
11 admissions or tickets to an event; by a neighborhood association, church, civic group,  
12 garden club, social club or similar nonprofit organization; not involving  
13 entertainment for which payment in the aggregate exceeds \$500 for performing or  
14 as reimbursement of expenses unless access to the event may be obtained without  
15 payment of a direct or indirect admission fee; conducted by the organization if the  
16 organization is not engaged in a trade or business and is not required to have a  
17 seller's permit. For purposes of this subsection, an organization is engaged in a trade  
18 or business and is required to have a seller's permit if its sales of tangible personal  
19 property and services, not including sales of tickets to events, and its events occur  
20 on more than 20 days during the year, unless its receipts do not exceed \$25,000  
21 during the year. The exemption under this subsection does not apply to ~~gross receipts~~  
22 the sales price from the sale of bingo supplies to players or to the sale, rental or use  
23 of regular bingo cards, extra regular cards and special bingo cards.

24 **SECTION 109.** 77.54 (8) of the statutes is amended to read:

1           77.54 (8) Charges for ~~interest, financing or insurance, not including contracts~~  
2 under s. 77.52 (2) (a) 13m., where such charges are separately set forth upon the  
3 invoice given by the seller to the purchaser.

4           **SECTION 110.** 77.54 (9) of the statutes is amended to read:

5           77.54 (9) The ~~gross receipts~~ sales price from sales of tickets or admissions to  
6 public and private elementary and secondary school activities, where the entire net  
7 proceeds therefrom are expended for educational, religious or charitable purposes.

8           **SECTION 111.** 77.54 (9a) (intro.) of the statutes is amended to read:

9           77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage  
10 by, use by or other consumption of tangible personal property and taxable services  
11 by:

12           **SECTION 112.** 77.54 (10) of the statutes is amended to read:

13           77.54 (10) The ~~gross receipts~~ sales price from the sale of all admission fees,  
14 admission stickers or camping fees under s. 27.01 (7) to (11) and all admission fees  
15 to any museum operated by a nonprofit corporation under a lease agreement with  
16 the state historical society.

17           **SECTION 113.** 77.54 (11) of the statutes is amended to read:

18           77.54 (11) The ~~gross receipts~~ sales price from the sales of and the storage, use  
19 or other consumption in this state of motor vehicle fuel, general aviation fuel or  
20 alternate fuel, subject to taxation under ch. 78, unless the motor vehicle fuel or  
21 alternate fuel tax is refunded under s. 78.75 because the buyer does not use the fuel  
22 in operating a motor vehicle upon the public highways.

23           **SECTION 114.** 77.54 (12) of the statutes is amended to read:

24           77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use  
25 or other consumption in this state of rail freight or passenger cars, locomotives or

1 other rolling stock used in railroad operations, or accessories, attachments, parts,  
2 lubricants or fuel therefor.

3 **SECTION 115.** 77.54 (13) of the statutes is amended to read:

4 77.54 (13) The ~~gross receipts~~ sales price from the sales of and the storage, use  
5 or other consumption in this state of commercial vessels and barges of 50-ton burden  
6 or over primarily engaged in interstate or foreign commerce or commercial fishing,  
7 and the accessories, attachments, parts and fuel therefor.

8 **SECTION 116.** 77.54 (14) (intro.) of the statutes is amended to read:

9 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the  
10 storage, use, or other consumption in this state of ~~medieines~~ drugs that are any of  
11 the following:

12 **SECTION 117.** 77.54 (14) (a) of the statutes is amended to read:

13 77.54 (14) (a) Prescribed for the treatment of a human being by a person  
14 authorized to prescribe the ~~medieines~~ drugs, and dispensed on prescription filled by  
15 a registered pharmacist in accordance with law.

16 **SECTION 118.** 77.54 (14) (b) of the statutes is amended to read:

17 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist  
18 to a patient who is a human being for treatment of the patient.

19 **SECTION 119.** 77.54 (14) (f) (intro.) of the statutes is amended to read:

20 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the  
21 ~~medieine~~ drug may not be dispensed without a prescription:

22 **SECTION 120.** 77.54 (14b) of the statutes is created to read:

23 77.54 (14b) The sales price from the sales of and the storage, use, or other  
24 consumption of bandages, dressings, syringes, and similar items that are sold as a

1 bundled transaction that includes drugs that are exempt under sub. (14) and sold by  
2 the seller as a single product or piece of merchandise.

3 **SECTION 121.** 77.54 (14g) of the statutes is repealed.

4 **SECTION 122.** 77.54 (14s) of the statutes is repealed.

5 **SECTION 123.** 77.54 (15) of the statutes is amended to read:

6 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use  
7 or other consumption of all newspapers, of periodicals sold by subscription and  
8 regularly issued at average intervals not exceeding 3 months, or issued at average  
9 intervals not exceeding 6 months by an educational association or corporation sales  
10 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to  
11 commercial publishers for distribution without charge or mainly without charge or  
12 regularly distributed by or on behalf of publishers without charge or mainly without  
13 charge to the recipient and of shoppers guides which distribute no less than 48 issues  
14 in a 12-month period. In this subsection, "shoppers guide" means a community  
15 publication delivered, or attempted to be delivered, to most of the households in its  
16 coverage area without a required subscription fee, which advertises a broad range  
17 of products and services offered by several types of businesses and individuals. In  
18 this subsection, "controlled circulation publication" means a publication that has at  
19 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes  
20 not more than 75% of its pages to advertising and that is not conducted as an  
21 auxiliary to, and essentially for the advancement of, the main business or calling of  
22 the person that owns and controls it.

23 **SECTION 124.** 77.54 (16) of the statutes is amended to read:

24 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use  
25 or other consumption of fire trucks and fire fighting equipment, including

1 accessories, attachments, parts and supplies therefor, sold to volunteer fire  
2 departments.

3 **SECTION 125.** 77.54 (17) of the statutes is amended to read:

4 77.54 (17) The gross receipts sales price from the sales of and the storage, use  
5 or other consumption of water, that is not food and food ingredient, when delivered  
6 through mains.

7 **SECTION 126.** 77.54 (18) of the statutes is amended to read:

8 77.54 (18) When the sale, lease or rental of a service or property that was  
9 previously exempt or not taxable under this subchapter becomes taxable, and the  
10 service or property is furnished under a written contract by which the seller is  
11 unconditionally obligated to provide the service or property for the amount fixed  
12 under the contract, the seller is exempt from sales or use tax on the gross receipts  
13 sales price for services or property provided until the contract is terminated,  
14 extended, renewed or modified. However, from the time the service or property  
15 becomes taxable until the contract is terminated, extended, renewed or modified the  
16 user is subject to use tax, measured by the sales purchase price, on the service or  
17 property purchased under the contract.

18 **SECTION 127.** 77.54 (20) of the statutes is repealed.

19 **SECTION 128.** 77.54 (20m) of the statutes is repealed.

20 **SECTION 129.** 77.54 (20n) of the statutes is created to read:

21 77.54 (20n) (a) The sales price from the sale of and the storage, use, or other  
22 consumption of food and food ingredients, except candy, soft drinks, dietary  
23 supplements, and prepared food.

24 (b) The sales price from the sale of and the storage, use, or other consumption  
25 of food and food ingredients, except soft drinks, sold by hospitals, sanatoriums,

1 nursing homes, retirement homes, community-based residential facilities, as  
2 defined in s. 50.01 (1g), or day care centers registered under ch. 48, including  
3 prepared food that is sold to the elderly or handicapped by persons providing mobile  
4 meals on wheels. In this paragraph, "retirement home" means a nonprofit  
5 residential facility where 3 or more unrelated adults or their spouses have their  
6 principal residence and where support services, including meals from a common  
7 kitchen, are available to residents.

8 (c) The sales price from the sale of and the storage, use, or other consumption  
9 of food and food ingredients, furnished in accordance with any contract or agreement  
10 or paid for to such institution through the use of an account of such institution, by  
11 a public or private institution of higher education to any of the following:

12 1. An undergraduate student, a graduate student, or a student enrolled in a  
13 professional school if the student is enrolled for credit at the public or private  
14 institution of higher education and if the food and food ingredients are consumed by  
15 the student.

16 2. A national football league team.

17 **SECTION 130.** 77.54 (20p) of the statutes is created to read:

18 **77.54 (20p)** The sales price from the sale of and the storage, use, or other  
19 consumption of taxable and exempt food and food ingredients that are packaged  
20 together if 50 percent or more of the sales price of the items packaged together is  
21 attributable to food and food ingredients that are exempt from the taxes imposed  
22 under this subchapter. If more than 50 percent of the sales price is attributable to  
23 items that are subject to the taxes imposed under this subchapter, the entire sales  
24 price is subject to the taxes imposed under this subchapter, regardless of any  
25 exemption under this section that otherwise applies to the remaining items.