

1 subsidiary for the purpose of selling, delivering or the taking of orders for any  
2 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable  
3 services.

4 **SECTION 2239.** 77.51 (13g) (c) of the statutes is created to read:

5 77.51 (13g) (c) Any retailer selling tangible personal property, items or  
6 property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital goods,  
7 or taxable services for storage, use, or other consumption in this state, unless  
8 otherwise limited by federal law.

9 **SECTION 2240.** 77.51 (13r) of the statutes is amended to read:

10 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall  
11 be deemed the consumer of the tangible personal property, items or property under  
12 [2240; SA-SSA1-SB40; Page: 1080, Line: 3; Could not find pattern match.]s.  
13 77.52 (1) (b) or (c), specified digital goods, additional digital goods, or services  
14 purchased.

15 **SECTION 2241.** 77.51 (13rm) of the statutes is created to read:

16 77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental  
17 for any purpose other than resale, sublease, or subrent.

18 **SECTION 2243.** 77.51 (14) (intro.) of the statutes is amended to read:

19 77.51 (14) (intro.) "Sale", "~~sale, lease or rental~~", "~~retail sale~~", "~~sale at retail~~", or  
20 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the  
21 ownership of, title to, possession of, or enjoyment of tangible personal property, items  
22 or property under s. 77.52 (1) (b) or (c), or services for use or consumption but not  
23 for resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c),  
24 or services and includes:

25 **SECTION 2244.** 77.51 (14) (a) of the statutes is amended to read:

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1           77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal  
2           property or items or property under s. 77.52 (1) (b) or (c) which is are sold to a  
3           successful bidder. ~~The proceeds from, except the sale of property or items~~ sold at  
4           auction which is are bid in by the seller and on which title does not pass to a new  
5           purchaser ~~shall be deducted from the gross proceeds of the sale and the tax paid only~~  
6           ~~on the net proceeds.~~

7           **SECTION 2245.** 77.51 (14) (b) of the statutes is amended to read:

8           77.51 (14) (b) The furnishing or distributing of tangible personal property,  
9           items or property under s. 77.52 (1) (b) or (c), specified digital goods, additional digital  
10          or taxable services for a consideration by social clubs and fraternal organizations to  
11          their members or others.

12          **SECTION 2246.** 77.51 (14) (c) of the statutes is amended to read:

13          77.51 (14) (c) A transaction whereby the possession of tangible personal  
14          property ~~is~~ <sup>plain text</sup> or items or property under s. 77.52 (1) (b) or (c) ~~are~~ transferred but the  
15          seller retains the title as security for the payment of the price.

16          **SECTION 2247.** 77.51 (14) (d) of the statutes is repealed.

17          **SECTION 2248.** 77.51 (14) (g) of the statutes is renumbered 77.51 (15a) (b) 4.

18          **SECTION 2249.** 77.51 (14) (h) of the statutes is amended to read:

19          77.51 (14) (h) A transfer for a consideration of the title or possession of tangible  
20          personal property or items or property under s. 77.52 (1) (b) or (c) which has have  
21          been produced, fabricated, or printed to the special order of the customer or of any  
22          publication.

23          **SECTION 2250.** 77.51 (14) (i) of the statutes is repealed.

24          **SECTION 2251.** 77.51 (14) (j) of the statutes is amended to read:

1           77.51 (14) (j) The granting of possession of tangible personal property or items  
2           or property under s. 77.52 (1) (b) or (c) by a lessor to a lessee, or to another person  
3           at the direction of the lessee. Such a transaction is deemed a continuing sale in this  
4           state ~~by the lessor for the duration of the lease as respects any period of time the~~  
5           ~~leased property is situated in this state, irrespective of the time or place of delivery~~  
6           ~~of the property to the lessee or such other person.~~

7           **SECTION 2252.** 77.51 (14) (k) of the statutes is repealed.

8           **SECTION 2253.** 77.51 (14) (L) of the statutes is repealed.

9           **SECTION 2253d.** 77.51 (14) (m) of the statutes is created to read:

10          77.51 (14) (m) A transaction for which a person's books and records show the  
11          transaction created, with regard to the transferee, an obligation to pay a certain  
12          amount of money or an increase in accounts payable or, with regard to the transferor,  
13          a right to receive a certain amount of money or an increase in accounts receivable.

14          **SECTION 2253e.** 77.51 (14) (n) of the statutes is created to read:

15          77.51 (14) (n) All activities described in this subsection regardless of all of the  
16          following:

- 17           1. Whether the transaction is mercantile in nature.
- 18           2. Whether the seller sells smaller quantities from inventory.
- 19           3. Whether the seller makes or intends to make a profit on the sale.
- 20           4. Whether the seller or the buyer receives a benefit the seller or buyer  
21          bargained for.
- 22           5. The percentage of the seller's total sales that the sale represents.
- 23           6. Any activities other than those described in sub. (13) (a) to (o) in which the  
24          seller is engaged.

25          **SECTION 2254.** 77.51 (14g) (a) of the statutes is amended to read:

1           77.51 (14g) (a) The transfer of property or items or property under s. 77.52 (1)  
2           (b) or (c) to a corporation upon its organization solely in consideration for the issuance  
3           of its stock;

4           **SECTION 2255.** 77.51 (14g) (b) of the statutes is amended to read:

5           77.51 (14g) (b) The contribution of property or items or property under s. 77.52  
6           (1) (b) or (c) to a newly formed partnership solely in consideration for a partnership  
7           interest therein;

8           **SECTION 2256.** 77.51 (14g) (bm) of the statutes is amended to read:

9           77.51 (14g) (bm) The contribution of property or items or property under s.  
10          77.52 (1) (b) or (c) to a limited liability company upon its organization solely in  
11          consideration for a membership interest;

12          **SECTION 2257.** 77.51 (14g) (c) of the statutes is amended to read:

13          77.51 (14g) (c) The transfer of property or items or property under s. 77.52 (1)  
14          (b) or (c) to a corporation, solely in consideration for the issuance of its stock,  
15          pursuant to a merger or consolidation;

16          **SECTION 2258.** 77.51 (14g) (cm) of the statutes is amended to read:

17          77.51 (14g) (cm) The transfer of property or items or property under s. 77.52  
18          (1) (b) or (c) to a limited liability company, solely in consideration for a membership  
19          interest, pursuant to a merger;

20          **SECTION 2259.** 77.51 (14g) (d) of the statutes is amended to read:

21          77.51 (14g) (d) The distribution of property or items or property under s. 77.52  
22          (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial  
23          liquidation;

24          **SECTION 2260.** 77.51 (14g) (e) of the statutes is amended to read:

① 77.51 (14g) (e) The distribution of property <sup>plain</sup> ~~or items or property~~ under s. 77.52  
2 (1) (b) or (c) by a partnership to its partners in whole or partial liquidation;

3 SECTION 2261. 77.51 (14g) (em) of the statutes is amended to read:

4 77.51 (14g) (em) The distribution of property or items or property under s.  
5 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial  
6 liquidation;

7 SECTION 2262. 77.51 (14g) (f) of the statutes is amended to read:

8 77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)  
9 (b) or (c) by the seller from the purchaser when the only consideration is cancellation  
10 of the purchaser's obligation to pay the remaining balance of the purchase price;

11 SECTION 2263. 77.51 (14g) (g) of the statutes is amended to read:

12 77.51 (14g) (g) The transfer of property or items or property under s. 77.52 (1)  
13 (b) or (c) in a reorganization as defined in section 368 of the internal revenue code  
14 in which no gain or loss is recognized for franchise or income tax purposes; or

15 SECTION 2264. 77.51 (14g) (h) of the statutes is amended to read:

✓ ① 16 77.51 (14g) (h) Any transfer of all or substantially all the property or items or  
17 property under s. 77.52 (1) (b) or (c) <sup>f</sup> held or used by a person in the course of an  
18 activity requiring the holding of a seller's permit, if after the transfer the real or  
19 ultimate ownership of the property or items is substantially similar to that which  
20 existed before the transfer. For the purposes of this section, stockholders,  
21 bondholders, partners, members or other persons holding an interest in a  
22 corporation or other entity are regarded as having the real or ultimate ownership of  
23 the property or items of the corporation or other entity. In this paragraph,  
24 "substantially similar" means 80% or more of ownership.

25 SECTION 2265. 77.51 (14r) of the statutes is repealed.

1           **SECTION 2266.** 77.51 (15) of the statutes is repealed.

2           **SECTION 2267.** 77.51 (15a) of the statutes is created to read:

3           77.51 (15a) (a) "Sales, lease, or rental for resale, sublease, or subrent" includes  
4 transfers of tangible personal property or items or property under s. 77.52 (1) (b) or  
5 (c) to a service provider that the service provider transfers in conjunction with but  
6 not incidental to the selling, performing, or furnishing of any service, and transfers  
7 of tangible personal property or items or property under s. 77.52 (1) (b) or (c) to a  
8 service provider that the service provider physically transfers in conjunction with  
9 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.  
10 This paragraph does not apply to sub. (2).

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

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

17           2. Any sale of tangible personal property or items or property under s. 77.52  
18 (1) (b) or (c) to a purchaser even though such property or items may be used or  
19 consumed by some other person to whom such purchaser transfers the property or  
20 items without valuable consideration, such as gifts, and advertising specialties  
21 distributed at no charge and apart from the sale of other tangible personal property,  
22 items or property under s. 77.52 (1) (b) or (c), or service.

23           3. Transfers of tangible personal property or items or property under s. 77.52  
24 (1) (b) or (c) to a service provider that the service provider transfers in conjunction  
25 with the selling, performing, or furnishing of any service, if the tangible personal

1 property or items or property under s. 77.52 (1) (b) or (c) are incidental to the service,  
2 unless the service provider is selling, performing, or furnishing services under s.  
3 77.52 (2) (a) 7., 10., 11., or 20.

4 **SECTION 2268.** 77.51 (15b) of the statutes is created to read:

5 77.51 (15b) (a) "Sales price" means the total amount of consideration, including  
6 cash, credit, property, and services, for which tangible personal property, items or  
7 property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented, valued in  
8 money, whether received in money or otherwise, without any deduction for the  
9 following:

10 1. The seller's cost of the property or items or property under s. 77.52 (1) (b) or  
11 (c) sold.

12 2. The cost of materials used, labor or service cost, interest, losses, all costs of  
13 transportation to the seller, all taxes imposed on the seller, and any other expense  
14 of the seller.

15 3. Charges by the seller for any services necessary to complete a sale, not  
16 including delivery and installation charges.

17 4. a. Delivery charges, except as provided in par. (b) 4.

18 b. If a shipment includes property or items under s. 77.52 (2) (b) or (c) that are  
19 subject to tax under this subchapter and property or items that are not subject to tax  
20 under this subchapter, the amount of the delivery charge that the seller allocates to  
21 the property or items that are subject to tax under this subchapter is based on the  
22 total sales price of the property or items that are subject to tax under this subchapter  
23 as compared to the total sales price of all the property or items or on the total weight  
24 of the property or items that are subject to tax under this subchapter as compared  
25 to the total weight of all the property or items, except that if the seller does not make

1 the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge  
2 amount, consistent with this subd. 4. b.

3 5. Installation charges.

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

5 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a  
6 3rd party, except as provided in par. (c); that are allowed by a seller; and that are  
7 taken by a purchaser on a sale.

8 2. Interest, financing, and carrying charges from credit that is extended on a  
9 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or  
10 services, if the amount of the interest, financing, or carrying charges is separately  
11 stated on the invoice, bill of sale, or similar document that the seller gives to the  
12 purchaser.

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

16 4. Delivery charges for direct mail.

17 5. In all transactions in which an article of tangible personal property or items  
18 under s. 77.52 (2) (b) or (c) are traded toward the purchase of an article of greater  
19 value, the amount of the sales price that represents the amount allowed for the  
20 article traded, except that this subdivision does not apply to any transaction to which  
21 subd. 7. or 8. applies.

22 6. If a person who purchases a motor vehicle presents a statement issued under  
23 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the  
24 statement to the seller within 60 days from the date of receiving a refund under s.  
25 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under

1 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.  
2 This subdivision applies only to the first motor vehicle purchased by a person after  
3 receiving a refund under s. 218.0171 (2) (b) 2. b.

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

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

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

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

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

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

25 4. Any of the following also applies:

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

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

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

11 **SECTION 2269e.** 77.51 (17) (intro.) of the statutes, as affected by 2007 Wisconsin  
12 Act .... (this act), is amended to read:

✓ 13 77.51 (17) (intro.) "Seller" includes every person selling, leasing, or renting  
14 tangible personal property or items or property under s. 77.52 (1) (b) or (c) or selling,  
15 performing, or furnishing services of a kind the ~~gross receipts~~ sales price from the  
16 sale, lease, rental, performance, or furnishing of which ~~are~~ is required to be included  
17 in the measure of the sales tax, regardless of all of the following:

✓ 18 **SECTION 2269d.** 77.51 (17) of the statutes is renumbered 77.51 (17) (intro.) and  
19 amended to read:

20 77.51 (17) (intro.) "Seller" includes every person selling, leasing, or renting  
21 tangible personal property or selling, performing, or furnishing services of a kind the  
22 gross receipts from the sale, lease, rental, performance, or furnishing of which are  
23 required to be included in the measure of the sales tax, regardless of all of the  
24 following:

25 **SECTION 2269f.** 77.51 (17) (a) to (f) of the statutes are created to read:

- 1           77.51 (17) (a) Whether the transaction is mercantile in nature.
- 2           (b) Whether the seller sells smaller quantities from inventory.
- 3           (c) Whether the seller makes or intends to make a profit on the sale.
- 4           (d) Whether the seller or the buyer receives a benefit the seller or buyer
- 5 bargained for.
- 6           (e) The percentage of the seller's total sales that the sale represents.
- 7           (f) Any activities other than those described in sub. (13) (a) to (o) in which the
- 8 seller is engaged.

9           **SECTION 2270.** 77.51 (17m) of the statutes is repealed and recreated to read:

10           77.51 (17m) "Service address" means any of the following:

11           (a) The location of the telecommunications equipment to which a customer's

12 telecommunications service is charged and from which the telecommunications

13 service originates or terminates, regardless of where the telecommunications service

14 is billed or paid.

15           (b) If the location described under par. (a) is not known by the seller who sells

16 the telecommunications service, the location where the signal of the

17 telecommunications service originates, as identified by the seller's

18 telecommunications system or, if the signal is not transmitted by the seller's

19 telecommunications system, by information that the seller received from the seller's

20 service provider.

21           (c) If the locations described under pars. (a) and (b) are not known by the seller

22 who sells the telecommunications service, the customer's place of primary use.

23           **SECTION 2271.** 77.51 (17w) of the statutes is created to read:

24           77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent

25 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not

1 include a beverage that contains milk or milk products; soy, rice, or similar milk  
2 substitutes; or more than 50 percent vegetable or fruit juice by volume.

3 SECTION 2273. 77.51 (18) of the statutes is amended to read:

4 77.51 (18) "Storage" includes any keeping or retention in this state of tangible  
5 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from  
6 a retailer for any purpose except sale in the regular course of business.

7 SECTION 2274. 77.51 (20) of the statutes is amended to read:

8 77.51 (20) "Tangible personal property" means ~~all tangible personal property~~  
9 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~  
10 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,  
11 natural gas, steam and, water, and also leased property affixed to realty if the lessor  
12 has the right to remove the property upon breach or termination of the lease  
13 agreement, unless the lessor of the property is also the lessor of the realty to which  
14 the property is affixed. "Tangible personal property" also includes coins and stamps  
15 of the United States sold or traded as collectors' items above their face value and  
16 computer programs except custom computer programs prewritten computer  
17 software, but does not include items or property under s. 77.52 (1) (b) or (c).

18 SECTION 2275. 77.51 (21) of the statutes is amended to read:

19 77.51 (21) "Taxpayer" means the person who is required to pay, collect, or  
20 account for or who is otherwise directly interested in the taxes imposed by this  
21 subchapter, including a certified service provider.

22 SECTION 2276. 77.51 (21m) of the statutes is amended to read:

23 77.51 (21m) "Telecommunications and Internet access services" means  
24 sending messages and information transmitted through the use of local, toll and  
25 wide-area telephone service; channel services; telegraph services; teletypewriter;

1 computer exchange services; cellular mobile telecommunications service; specialized  
2 mobile radio; stationary two-way radio; paging service; or any other form of mobile  
3 and portable one-way or two-way communications; or any other transmission of  
4 messages or information by electronic or similar means between or among points by  
5 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.  
6 "Telecommunications services" does not include sending collect telecommunications  
7 that are received outside of the state.

8 **SECTION 2276m.** 77.51 (21m) of the statutes, as affected by 2007 Wisconsin Act  
9 ... (this act), is renumbered 77.51 (5g) and amended to read:

10 77.51 (5g) "~~Telecommunications and Internet access services~~" means sending  
11 messages and information transmitted through the use of local, toll and wide-area  
12 telephone service; channel services; telegraph services; teletypewriter; computer  
13 exchange services; cellular mobile telecommunications service; specialized mobile  
14 radio; stationary two-way radio; paging service; or any other form of mobile and  
15 portable one-way or two-way communications; or any other transmission of  
16 messages or information by electronic or similar means between or among points by  
17 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.  
18 "~~Telecommunications services~~" does not include sending collect telecommunications  
19 ~~that are received outside of the state.~~ "Internet access services" does not include  
20 telecommunications services to the extent that such services are taxable under s.  
21 77.52 (2) (a) 5. am.

22 **SECTION 2277.** 77.51 (21n) of the statutes is created to read:

23 77.51 (21n) "Telecommunications services" means electronically transmitting,  
24 conveying, or routing voice, data, audio, video, or other information or signals to a  
25 point or between or among points. "Telecommunications services" includes the

1 transmission, conveyance, or routing of such information or signals in which  
2 computer processing applications are used to act on the content's form, code, or  
3 protocol for transmission, conveyance, or routing purposes, regardless of whether  
4 the service is referred to as a voice over Internet protocol service or classified by the  
5 federal communications commission as an enhanced or value-added service.

6 "Telecommunications services" does not include any of the following:

7 (a) Data processing and information services that allow data to be generated,  
8 acquired, stored, processed, or retrieved and delivered to a purchaser by an electronic  
9 transmission, if the purchaser's primary purpose for the underlying transaction is  
10 the processed data.

11 (b) Installing or maintaining wiring or equipment on a customer's premises.

12 (c) Tangible personal property.

13 (d) Advertising, including directory advertising.

14 (e) Billing and collection services provided to 3rd parties.

15 (f) Internet access service.

16 (g) Radio and television audio and video programming services, regardless of  
17 the medium in which the services are provided, including cable service, as defined  
18 in 47 USC 522 (6), audio and video programming services delivered by commercial  
19 mobile radio service providers, as defined in 47 CFR 20.3, and the transmitting,  
20 conveying, or routing of such services by the programming service provider.

21 (h) Ancillary services.

22 **SECTION 2278.** 77.51 (21p) of the statutes is created to read:

23 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,  
24 and any other item that contains tobacco.

25 **SECTION 2280.** 77.51 (22) (a) of the statutes is amended to read:

1           77.51 (22) (a) "Use" includes the exercise of any right or power over tangible  
2 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services  
3 incident to the ownership, possession or enjoyment of the property, items, or services,  
4 or the results produced by the services, including installation or affixation to real  
5 property and including the possession of, or the exercise of any right or power over  
6 tangible personal property or items or property under s. 77.52 (1) (b) or (c) by a lessee  
7 under a lease, except that "use" does not include the activities under sub. (18).

8           **SECTION 2281.** 77.51 (22) (b) of the statutes is amended to read:

9           77.51 (22) (b) In this subsection "enjoyment" includes a purchaser's right to  
10 direct the disposition of property or items or property under s. 77.52 (1) (b) or (c),  
11 whether or not the purchaser has possession of the property or items. "Enjoyment"  
12 also includes, but is not limited to, having shipped into this state by an out-of-state  
13 supplier printed material which is designed to promote the sale of property, items or  
14 property under s. 77.52 (1) (b) or (c), or services, or which is otherwise related to the  
15 business activities, of the purchaser of the printed material or printing service.

16           **SECTION 2282.** 77.51 (22) (bm) of the statutes is created to read:

17           77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible  
18 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services"  
19 includes distributing, selecting recipients, determining mailing schedules, or  
20 otherwise directing the distribution, dissemination, or disposal of tangible personal  
21 property, items or property under s. 77.52 (1) (b) or (c), or taxable services, regardless  
22 of whether the purchaser of such property, items, or services owns or physically  
23 possesses, in this state, the property, items, goods, or services.

24           **SECTION 2283.** 77.51 (24) of the statutes is created to read:

1           77.51 (24) "Value-added non-voice data service" means a service in which  
2 computer processing applications are used to act on the form, content, code, or  
3 protocol of the data provided by the service and are used primarily for a purpose other  
4 than for transmitting, conveying, or routing data.

5           **SECTION 2284.** 77.51 (25) of the statutes is created to read:

6           77.51 (25) "Vertical service" means an ancillary service that is provided with  
7 one or more telecommunications services and allows customers to identify callers  
8 and to manage multiple calls and call connections, including conference bridging  
9 services.

10          **SECTION 2285.** 77.51 (26) of the statutes is created to read:

11          77.51 (26) "Voice mail service" means an ancillary service that allows a  
12 customer to store, send, or receive recorded messages, not including any vertical  
13 service that the customer must have to use the voice mail service.

14          **SECTION 2286.** 77.52 (1) of the statutes is renumbered 77.52 (1) (a) and  
15 amended 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, as determined under s. 77.522.

22          **SECTION 2287.** 77.52 (1) (b) of the statutes is created to read:

23          77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United  
24 States that are sold or traded as collectors' items above their face value, a tax is

1 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such  
2 coins and stamps.

3 **SECTION 2288.** 77.52 (1) (c) of the statutes is created to read:

4 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,  
5 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease  
6 of such property, if the lessor has the right to remove the leased property upon breach  
7 or termination of the lease agreement, unless the lessor of the leased property is also  
8 the lessor of the real property to which the leased property is affixed.

9 **SECTION 2289d.** 77.52 (1b) of the statutes is created to read:

10 77.52 (1b) All sales, leases, or rentals of tangible personal property at retail  
11 in this state are subject to the tax imposed under sub. (1) unless an exemption in this  
12 subchapter applies.

13 **SECTION 2289e.** 77.52 (1b) of the statutes, as created by 2007 Wisconsin Act ...  
14 (this act), is repealed and recreated to read:

15 77.52 (1b) All sales, leases, or rentals of tangible personal property or items  
16 or property under sub. (1) (b) or (c) at retail in this state are subject to the tax imposed  
17 under sub. (1) unless an exemption in this subchapter applies.

18 **SECTION 2290.** 77.52 (2) (intro.) of the statutes is amended to read:

19 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing  
20 the services described under par. (a) at retail in this state, as determined under s.  
21 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,  
22 performing or furnishing the services at the rate of 5% of the ~~gross receipts~~ sales price  
23 from the sale, license, performance or furnishing of the services.

24 **SECTION 2291b.** 77.52 (2) (a) 5. a. of the statutes is amended to read:

1           77.52 (2) (a) 5. a. The sale of telecommunications and Internet access services,  
2           except services subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either  
3           originate or terminate in this state; except services that are obtained by means of a  
4           toll-free number, that originate outside this state and that terminate in this state;  
5           and are charged to a service address in this state, regardless of the location where  
6           that charge is billed or paid; and the sale of the rights to purchase  
7           telecommunications services, including purchasing reauthorization numbers, by  
8           paying in advance and by using an access number and authorization code, except  
9           sales that are subject to subd. 5. b.

10           **SECTION 2291c.** 77.52 (2) (a) 5. a. of the statutes, as affected by 2007 Wisconsin  
11           Act ... (this act), is amended to read:

12           77.52 (2) (a) 5. a. The sale of telecommunications ~~and Internet access~~ services,  
13           ~~except services subject to 4 USC 116 to 126, as amended by P.L. 106-252, that either~~  
14           ~~originate or terminate in this state; except services that are obtained by means of a~~  
15           ~~toll-free number, that originate outside this state and that terminate in this state;~~  
16           ~~and are charged to a service address in this state, regardless of the location where~~  
17           ~~that charge is billed or paid; and the sale of the rights to purchase~~  
18           ~~telecommunications services, including purchasing reauthorization numbers, by~~  
19           ~~paying in advance and by using an access number and authorization code, except~~  
20           ~~sales that are subject to subd. 5. b.~~

21           **SECTION 2291p.** 77.52 (2) (a) 5. am. of the statutes is created to read:

22           77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international  
23           telecommunications services, except interstate 800 services.

24           **SECTION 2292.** 77.52 (2) (a) 5. b. of the statutes is repealed.

25           **SECTION 2294.** 77.52 (2) (a) 5. c. of the statutes is created to read:

1           77.52 (2) (a) 5. c. The sale of ancillary services, except detailed  
2 telecommunications billing services.

3           **SECTION 2295.** 77.52 (2) (a) 5m. of the statutes is amended to read:

4           77.52 (2) (a) 5m. The sale of services that consist of recording  
5 telecommunications messages and transmitting them to the purchaser of the service  
6 or at that purchaser's direction, but not including ~~those services if they are merely~~  
7 ~~an~~ that are taxable under subd. 5. or services that are incidental, as defined in s.  
8 77.51 (5), element of to another service that is not taxable under this subchapter and  
9 sold to that the purchaser of the incidental service and is not taxable under this  
10 subchapter.

11           **SECTION 2296.** 77.52 (2) (a) 10. of the statutes is amended to read:

12           77.52 (2) (a) 10. Except for services provided by veterinarians and except for  
13 installing or applying tangible personal property that, subject to par. (ag), when  
14 installed or applied, will constitute an addition or capital improvement of real  
15 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,  
16 inspection, and maintenance of all items of tangible personal property and items and  
17 property under sub. (1) (b) and (c) unless, at the time of that the repair, service,  
18 alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance,  
19 a sale in this state of the type of property or items repaired, serviced, altered, fitted,  
20 cleaned, painted, coated, towed, inspected, or maintained would have been exempt  
21 to the customer from sales taxation under this subchapter, other than the exempt  
22 sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other  
23 than nontaxable sales under s. ~~77.51 (14r) juvenile~~ 77.522 or unless the repair,  
24 service, alteration, fitting, cleaning, painting, coating, towing, inspection, or  
25 maintenance is provided under a contract that is subject to tax under subd. 13m. The

1 tax imposed under this subsection applies to the repair, service, alteration, fitting,  
2 cleaning, painting, coating, towing, inspection, or maintenance of items listed in par.  
3 (ag), regardless of whether the installation or application of tangible personal  
4 property or items or property under sub. (1) (b) or (c) related to the items is an  
5 addition to or a capital improvement of real property, except that the tax imposed  
6 under this subsection does not apply to the original installation or the complete  
7 replacement of an item listed in par. (ag), if that the installation or replacement is  
8 a real property construction activity under s. 77.51 (2).

9 **SECTION 2297m.** 77.52 (2) (a) 11. of the statutes is amended to read:

10 77.52 (2) (a) 11. The producing, fabricating, processing, printing or imprinting  
11 of tangible personal property or items and property under sub. (1) (b) and (c) for a  
12 consideration for consumers who furnish directly or indirectly the materials used in  
13 the producing, fabricating, processing, printing or imprinting. This subdivision does  
14 not apply to the printing or imprinting of tangible personal property or items and  
15 property under sub. (1) (b) and (c) which will be subsequently transported outside the  
16 state for use outside the state by the consumer for advertising purposes.

17 **SECTION 2297p.** 77.52 (2) (a) 11. of the statutes, as affected by 2007 Wisconsin  
18 Act .... (this act), is repealed and recreated to read:

19 77.52 (2) (a) 11. The producing, fabricating, processing, printing or imprinting  
20 of tangible personal property or items and property under sub. (1) (b) and (c) for a  
21 consideration for consumers who furnish directly or indirectly the materials used in  
22 the producing, fabricating, processing, printing or imprinting. This subdivision does  
23 not apply to the printing or imprinting of tangible personal property or items and  
24 property under sub. (1) (b) and (c) that results in printed material, catalogs, or  
25 envelopes that are exempt under s. 77.54 (25) or (25m).

1           **SECTION 2298.** 77.52 (2) (a) 13m. of the statutes is created to read:

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

9           **SECTION 2299.** 77.52 (2m) (a) of the statutes is amended to read:

10           77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part  
11 of the charge for the service may be deemed a sale or rental of tangible personal  
12 property or items or property under sub. (1) (b) or (c) if the property or items  
13 transferred by the service provider is are incidental to the selling, performing or  
14 furnishing of the service, except as provided in par. (b).

15           **SECTION 2300.** 77.52 (2m) (b) of the statutes is amended to read:

16           77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,  
17 10., 11. and 20., all property or items or property under sub. (1) (b) or (c) physically  
18 transferred to the customer in conjunction with the selling, performing or furnishing  
19 of the service is a sale of tangible personal property or items or property under sub.  
20 (1) (b) or (c) separate from the selling, performing or furnishing of the service.

21           **SECTION 2300d.** 77.52 (2n) of the statutes is created to read:

22           77.52 (2n) The selling, performing, or furnishing of the services described  
23 under sub. (2) (a) at retail in this state is subject to the tax imposed under sub. (2)  
24 unless an exemption in this subchapter applies.

1           **SECTION 2300e.** 77.52 (2n) of the statutes, as created by 2007 Wisconsin Act  
2 .... (this act), is repealed and recreated to read:

3           **77.52 (2n)** The selling, licensing, performing, or furnishing of the services  
4 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is  
5 subject to the tax imposed under sub. (2) unless an exemption in this subchapter  
6 applies.

7           **SECTION 2301.** 77.52 (3m) of the statutes is repealed.

8           **SECTION 2302.** 77.52 (3n) of the statutes is repealed.

9           **SECTION 2303.** 77.52 (4) of the statutes is amended to read:

10           **77.52 (4)** It is unlawful for any retailer to advertise or hold out or state to the  
11 public or to any customer, directly or indirectly, that the tax or any part thereof will  
12 be assumed or absorbed by the retailer or that it will not be added to the selling price  
13 of the property or items or property under sub. (1) (b) or (c) sold or that if added it,  
14 or any part thereof, will be refunded. Any person who violates this subsection is  
15 guilty of a misdemeanor.

16           **SECTION 2304.** 77.52 (6) of the statutes is repealed.

17           **SECTION 2305.** 77.52 (7) of the statutes is amended to read:

18           **77.52 (7)** Every person desiring to operate as a seller within this state who  
19 holds a valid certificate under s. 73.03 (50) shall file with the department an  
20 application for a permit for each place of operations. Every application for a permit  
21 shall be made upon a form prescribed by the department and shall set forth the name  
22 under which the applicant intends to operate, the location of the applicant's place of  
23 operations, and the other information that the department requires. The Except as  
24 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;  
25 in the case of sellers other than sole proprietors, the application shall be signed by

1 the person authorized to act on behalf of such sellers. A nonprofit organization that  
2 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's  
3 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices  
4 received after it is required to obtain that permit. If that organization becomes  
5 eligible later for the exemption under s. 77.54 (7m) except for its possession of a  
6 seller's permit, it may surrender that permit.

7 **SECTION 2306.** 77.52 (7b) of the statutes is created to read:

8 77.52 (7b) Any person who may register under sub. (7) may designate an agent,  
9 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the  
10 manner prescribed by the department.

11 **SECTION 2307.** 77.52 (12) of the statutes is amended to read:

12 77.52 (12) A person who operates as a seller in this state without a permit or  
13 after a permit has been suspended or revoked or has expired, unless the person has  
14 a temporary permit under sub. (11), and each officer of any corporation, partnership  
15 member, limited liability company member, or other person authorized to act on  
16 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held  
17 only by persons actively operating as sellers of tangible personal property, items or  
18 property under sub. (1) (b) or (c), or taxable services. Any person not so operating  
19 shall forthwith surrender that person's permit to the department for cancellation.  
20 The department may revoke the permit of a person found not to be actively operating  
21 as a seller of tangible personal property, items or property under sub. (1) (b) or (c),  
22 or taxable services.

23 **SECTION 2308.** 77.52 (13) of the statutes is amended to read:

24 77.52 (13) For the purpose of the proper administration of this section and to  
25 prevent evasion of the sales tax it shall be presumed that all receipts are subject to

1 the tax until the contrary is established. The burden of proving that a sale of tangible  
2 personal property, items or property under sub. (1) (b) or (c), or services is not a  
3 taxable sale at retail is upon the person who makes the sale unless that person takes  
4 from the purchaser ~~a~~ an electronic or a paper certificate, in a manner prescribed by  
5 the department, to the effect that the property, items or property under sub. (1) (b)  
6 or (c), or service is purchased for resale or is otherwise exempt, except that no  
7 certificate is required for sales of cattle, sheep, goats, and pigs that are sold at an  
8 animal market, as defined in s. 95.68 (1) (ag), and no certificate is required for sales  
9 of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in  
10 or from which the commodity is deliverable on a contract for future delivery subject  
11 to the rules of a commodity market regulated by the U.S. commodity futures trading  
12 commission if upon the sale the commodity is not removed from the warehouse the  
13 sale of tangible personal property, items and property under sub. (1) (b) and (c), and  
14 services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n),  
15 (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), and (52), except  
16 as provided in s. 77.54 (30) (e) and (f).

17 **SECTION 2309.** 77.52 (14) (a) (intro.) and 1. and (b) of the statutes are  
18 consolidated, renumbered 77.52 (14) (a) and amended to read:

19 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the  
20 burden of proof of the tax otherwise applicable only if any of the following is true:

21 1. The certificate is taken in good faith the seller obtains a fully completed exemption  
22 certificate, or the information required to prove the exemption, from a person who  
23 is engaged as a seller of tangible personal property or taxable services and who holds  
24 the permit provided for in sub. (9) and who, at the time of purchasing purchaser no  
25 later than 90 days after the date of the sale of the tangible personal property, items

1 ~~or property under sub. (1) (b) or (c), or services, intends to sell it in the regular course~~  
2 ~~of operations or is unable to ascertain at the time of purchase whether the property~~  
3 ~~or service will be sold or will be used for some other purpose. (b) except as provided~~  
4 ~~in par. (am). The certificate under sub. (13) shall not relieve the seller of the tax~~  
5 ~~otherwise applicable if the seller fraudulently fails to collect sales tax, solicits the~~  
6 ~~purchaser to claim an unlawful exemption, accepts an exemption certificate from a~~  
7 ~~purchaser who claims to be an entity that is not subject to the taxes imposed under~~  
8 ~~this subchapter, if the subject of the transaction sought to be covered by the~~  
9 ~~exemption certificate is received by the purchaser at a location operated by the seller~~  
10 ~~in this state and the exemption certificate clearly and affirmatively indicates that~~  
11 ~~the claimed exemption is not available in this state. The certificate referred to in sub.~~  
12 ~~(13) shall be signed by and bear the name and address of provide information that~~  
13 ~~identifies the purchaser, and shall indicate the general character of the tangible~~  
14 ~~personal property or service sold by the purchaser and the basis for the claimed~~  
15 ~~exemption and a paper certificate shall be signed by the purchaser. The certificate~~  
16 ~~shall be in such form as the department prescribes by rule.~~

17 **SECTION 2310.** 77.52 (14) (a) 2. of the statutes is repealed.

18 **SECTION 2311.** 77.52 (14) (am) of the statutes is created to read:

19 77.52 (14) (am) If the seller has not obtained a fully completed exemption  
20 certificate or the information required to prove the exemption, as provided in par. (a),  
21 the seller may, no later than 120 days after the department requests that the seller  
22 substantiate the exemption, either provide proof of the exemption to the department  
23 by other means or obtain, in good faith, a fully completed exemption certificate from  
24 the purchaser.

25 **SECTION 2312.** 77.52 (15) of the statutes is amended to read:

1           77.52 (15) If a purchaser who ~~gives a resale certificate~~ purchases tangible  
2 personal property, items or property under sub. (1) (b) or (c), ~~for taxable services~~  
3 without paying a sales tax or use tax on such purchase because such property, items,  
4 or services were for resale makes any use of the property, items, or services other than  
5 retention, demonstration or display while holding it the property, items, or services  
6 for sale, lease or rental in the regular course of the purchaser's operations, the use  
7 shall be taxable to the purchaser under s. 77.53 as of the time that the property is,  
8 items, or services are first used by the purchaser, and the sales purchase price of the  
9 property, items, or services to the purchaser shall be the measure of the tax. Only  
10 ~~when there is an unsatisfied use tax liability on this basis because the seller has~~  
11 ~~provided incorrect information about that transaction to the department shall the~~  
12 ~~seller be liable for sales tax with respect to the sale of the property to the purchaser.~~

13           **SECTION 2313.** 77.52 (16) of the statutes is amended to read:

14           77.52 (16) Any person who gives a resale certificate for property, items or  
15 property under sub. (1) (b) or (c), or services which that person knows at the time of  
16 purchase is not to be resold by that person in the regular course of that person's  
17 operations as a seller for the purpose of evading payment to the seller of the amount  
18 of the tax applicable to the transaction is guilty of a misdemeanor. Any person  
19 certifying to the seller that the sale of property, items or property under sub. (1) (b)  
20 or (c) ~~or taxable service~~ is exempt, knowing at the time of purchase that it is not  
21 exempt, for the purpose of evading payment to the seller of the amount of the tax  
22 applicable to the transaction, is guilty of a misdemeanor.

23           **SECTION 2314.** 77.52 (19) of the statutes is amended to read:

24           77.52 (19) The department shall by rule provide for the efficient collection of  
25 the taxes imposed by this subchapter on sales of property, items or property under

1 sub. (1) (b) or (c), or services by persons not regularly engaged in selling at retail in  
2 this state or not having a permanent place of business, but who are temporarily  
3 engaged in selling from trucks, portable roadside stands, concessions at fairs and  
4 carnivals, and the like. The department may authorize such persons to sell property  
5 or items or property under sub. (1) (b) or (c) or sell, perform, or furnish services on  
6 a permit or nonpermit basis as the department by rule prescribes and failure of any  
7 person to comply with such rules constitutes a misdemeanor.

8 **SECTION 2315.** 77.52 (20) of the statutes is created to read:

9 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled  
10 transaction is subject to the tax imposed under this subchapter.

11 (b) At the retailer's option, if the retailer can identify, by reasonable and  
12 verifiable standards from the retailer's books and records that are kept in the  
13 ordinary course of its business for other purposes, including purposes unrelated to  
14 taxes, the portion of the price that is attributable to products that are not subject to  
15 the tax imposed under this subchapter, that portion of the sales price is not taxable  
16 under this subchapter. This paragraph does not apply to a bundled transaction that  
17 contains food and food ingredients, drugs, durable medical equipment, mobility  
18 enhancing equipment, prosthetic devices, or medical supplies.

19 **SECTION 2316.** 77.52 (21) of the statutes is created to read:

20 77.52 (21) A person who provides a product that is not a distinct and  
21 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)  
22 (b), is the consumer of that product and shall pay the tax imposed under this  
23 subchapter on the purchase price of that product.

24 **SECTION 2317.** 77.52 (22) of the statutes is created to read:

1           77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service  
2 provider is the consumer of the tangible personal property or items or property under  
3 sub. (1) (b) or (c) and shall pay the tax imposed under this subchapter on the purchase  
4 price of the property or items .

5           **SECTION 2318.** 77.52 (23) of the statutes is created to read:

6           77.52 (23) With regard to transactions described in s. 77.51 (1f) (c), the service  
7 provider is the consumer of the service that is essential to the use or receipt of the  
8 other service and shall pay the tax imposed under this subchapter on the purchase  
9 price of the service that is essential to the use or receipt of the other service.

10          **SECTION 2319.** 77.522 of the statutes is created to read:

11          **77.522 Sourcing. (1) GENERAL.** (a) In this section:

12           1. "Direct mail form" means a form for direct mail prescribed by the  
13 department.

14           2. "Receive" means taking possession of tangible personal property or items or  
15 property under s. 77.52 (1) (b) or (c) or making first use of services use of digital goods,  
16 whichever comes first. "Receive" does not include a shipping company taking  
17 possession of tangible personal property or items or property under s. 77.52 (1) (b)  
18 or (c) on a purchaser's behalf.

19           3. "Transportation equipment" means any of the following:

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

22           b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001  
23 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are  
24 registered under the international registration plan and operated under the

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1 authority of a carrier that is authorized by the federal government to carry persons  
2 or property in interstate commerce.

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

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

8 (b) Except as provided in par. (c) and subs. (2), (3), and (4), the location of a sale  
9 is determined as follows:

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

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

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

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

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

1           a. If the item sold is tangible personal property, or an item or property under  
2 s. 77.52 (1) (b) or (c), the sale occurs at the location from which the tangible personal  
3 property is shipped.

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

6           (c) The sale of direct mail occurs at the location from which the direct mail is  
7 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct  
8 mail form, or other information that indicates the appropriate taxing jurisdiction to  
9 which the direct mail is delivered to the ultimate recipients. If the purchaser  
10 provides a direct mail form or direct pay permit to the seller, the purchaser shall pay  
11 or remit, as appropriate, to the department the tax imposed under s. 77.53 on all  
12 purchases for which the tax is due and the seller is relieved from liability for  
13 collecting such tax. A direct mail form provided to a seller under this paragraph shall  
14 remain effective for all sales by the seller who received the form to the purchaser who  
15 provided the form, unless the purchaser revokes the form in writing and provides  
16 such revocation to the seller.

17           **(2) LEASE OR RENTAL.** (a) Except as provided in pars. (b) and (c), with regard  
18 to the first or only payment on the lease or rental, the lease or rental of tangible  
19 personal property or items or property under s. 77.52 (1) (b) or (c) occurs at the  
20 location determined under sub. (1) (b). If the property or item is moved from the place  
21 where the property or item was initially delivered, the subsequent periodic payments  
22 on the lease or rental occur at the property's or item's primary location as indicated  
23 by an address for the property or item that is provided by the lessee and that is  
24 available to the lessor in records that the lessor maintains in the ordinary course of  
25 the lessor's business, if the use of such an address does not constitute bad faith. The

1 location of a lease or rental as determined under this paragraph shall not be altered  
2 by any intermittent use of the property or item at different locations.

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

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

14 (d) A license of tangible personal property or items or property under s. 77.52  
15 (1) (b) or (c) shall be treated as a lease or rental of tangible personal property under  
16 this subsection.

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

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

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

23 3. "Communications channel" means a physical or virtual path of  
24 communications over which signals are transmitted between or among customer  
25 channel termination points.

1           4. "Customer" means a person who enters into a contract with a seller of  
2 telecommunications services or, in any transaction for which the end user is not the  
3 person who entered into a contract with the seller of telecommunications services,  
4 the end user of the telecommunications services. "Customer" does not include a  
5 person who resells telecommunications services or, for mobile telecommunications  
6 services, a serving carrier under an agreement to serve a customer outside the home  
7 service provider's licensed service area.

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

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

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

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

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

17          10. "Postpaid calling service" means a telecommunications service that is  
18 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit  
19 card, debit card, or similar method, or by charging it to a telephone number that is  
20 not associated with the location where the telecommunications service originates or  
21 terminates. "Postpaid calling service" includes a telecommunications service, not  
22 including a prepaid wireless calling service, that would otherwise be a prepaid  
23 calling service except that the service provided to the customer is not exclusively a  
24 telecommunications service.

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

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

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

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

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

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

19           (e) The sale of a postpaid calling service occurs at the location where the signal  
20 of the telecommunications service originates, as first identified by the seller's  
21 telecommunications system or, if the signal is not transmitted by the seller's  
22 telecommunications system, by information that the seller received from the seller's  
23 service provider.

24           (f) The sale of a prepaid calling service or a prepaid wireless calling service  
25 occurs at the location determined under sub. (1) (b), except that, if the service is a

1 prepaid wireless calling service and the location cannot be determined under sub. (1)  
2 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined  
3 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,  
4 as determined by the seller.

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

8 2. The sale of a private communication service in which all customer channel  
9 termination points are located entirely in one taxing jurisdiction for sales and use  
10 tax purposes occurs in the taxing jurisdiction in which the customer channel  
11 termination points are located.

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

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

23 (h) The sale of an Internet access service occurs at the customer's place of  
24 primary use.

25 (i) The sale of ancillary services occurs at the customer's place of primary use.

1 (j) If the location of the customer's service address, channel termination point,  
2 or place of primary use is not known, the location where the seller receives or hands  
3 off the signal shall be considered, for purposes of this section, the customer's service  
4 address, channel termination point, or place of primary use.

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

10 (b) Sales by a retail florist occur at the location determined by rule by the  
11 department.

12 **SECTION 2320.** 77.523 (title) of the statutes is repealed.

13 **SECTION 2321.** 77.523 of the statutes is renumbered 77.59 (9p) (a) and amended  
14 to read:

15 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116  
16 to 126, as amended by P.L. 106-252, and if the customer believes that the amount  
17 of the tax assessed for the service under this subchapter or the place of primary use  
18 or taxing jurisdiction assigned to the service is erroneous, the customer may request  
19 that the service provider correct the alleged error by sending a written notice to the  
20 service provider. The notice shall include a description of the alleged error, the street  
21 address for the customer's place of primary use of the service, the account name and  
22 number of the service for which the customer seeks a correction, and any other  
23 information that the service provider reasonably requires to process the request.  
24 Within 60 days from the date that a service provider receives a request under this  
25 section paragraph, the service provider shall review its records to determine the

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

12 **SECTION 2322.** 77.524 (1) (a) of the statutes is renumbered 77.524 (1) (am).

13 **SECTION 2323.** 77.524 (1) (ag) of the statutes is created to read:

14 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the  
15 seller before the states that are signatories to the agreement, as defined in s. 77.65  
16 (2) (a).

17 **SECTION 2324.** 77.524 (1) (b) of the statutes is renumbered 77.51 (1g) and  
18 amended to read:

19 77.51 (1g) "Certified service provider" means an agent that is certified jointly  
20 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and  
21 that performs all of a seller's sales tax and use tax functions related to the seller's  
22 retail sales, except that a certified service provider is not responsible for a retailer's  
23 obligation to remit tax on the retailer's own purchases.

24 ~~**SECTION 2325.** 77.525 of the statutes is amended to read:~~