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**SECTION 2118.** 71.49 (1) (ds) of the statutes is created to read:

71.49 (1) (ds) Ethanol and biodiesel fuel pump credit under s. 71.47 (5j).

**SECTION 2119.** 71.49 (1) (epa) of the statutes is created to read:

71.49 (1) (epa) Electronic medical records credit under s. 71.47 (5i).

**SECTION 2120.** 71.49 (1) (epp) of the statutes is renumbered 71.49 (1) (eps) and amended to read:

71.49 (1) (eps) Film production services credit under s. 71.47 (5f) b) 1. and 3.

**SECTION 2121.** 71.49 (1) (f) of the statutes is amended to read:

71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p), enterprise zone jobs credit under s. 71.47 (3w), film production services credit under s. 71.47 (5f) (b) 2., and estimated tax payments under s. 71.48.

**SECTION 2127.** 71.738 (1d) of the statutes is repealed.

**SECTION 2128.** 71.738 (2d) of the statutes is repealed.

**SECTION 2129.** 71.74 (14) of the statutes is amended to read:

71.74 (14) **ADDITIONAL REMEDY TO COLLECT TAX.** The department may also proceed under s. 71.91 (5) for the collection of any additional assessment of income or franchise taxes or surtaxes, after notice thereof has been given under sub. (11) and before the same shall have become delinquent, when it has reasonable grounds to believe that the collection of such additional assessment will be jeopardized by delay. In such cases notice of the intention to so proceed shall be given by registered mail to the taxpayer, and the warrant of the department shall not issue if the taxpayer within 10 days after such notice furnishes a bond in such amount, not exceeding double the amount of the tax, and with such sureties as the department shall

1 approve, conditioned upon the payment of so much of the additional taxes as shall  
2 finally be determined to be due, together with interest thereon as provided by s. 71.82  
3 (1) (a). Nothing in this subsection shall affect the review of additional assessments  
4 provided by ss. 71.88 (1) (a) and (2) (a), 71.89 (2), 73.01, and 73.015, and any amounts  
5 collected under this subsection shall be deposited with the secretary of  
6 ~~administration~~ department and disbursed after final determination of the taxes as  
7 are amounts deposited under s. 71.90 (2).

8 **SECTION 2130.** 71.765 of the statutes is repealed.

9 **SECTION 2131.** 71.775 (3) (a) 2. of the statutes is amended to read:

10 71.775 (3) (a) 2. ~~The partner, member, shareholder, or beneficiary has no~~  
11 ~~Wisconsin income other than his or her partner's, member's, shareholder's, or~~  
12 ~~beneficiary's share of income from the pass-through entity that is attributable to this~~  
13 ~~state and his or her share of such income is less than \$1,000.~~

14 **SECTION 2132.** 71.775 (3) (a) 3. of the statutes is created to read:

15 71.775 (3) (a) 3. The nonresident partner, member, shareholder, or beneficiary  
16 files an affidavit with the department, in the form and manner prescribed by the  
17 department, whereby the nonresident partner, member, shareholder, or beneficiary  
18 agrees to file a Wisconsin income or franchise tax return and be subject to the  
19 personal jurisdiction of the department, the tax appeals commission, and the courts  
20 of this state for the purpose of determining and collecting Wisconsin income and  
21 franchise taxes, including estimated tax payments, together with any related  
22 interest and penalties.

23 **SECTION 2133.** 71.775 (4) (b) 2. of the statutes is amended to read:

24 71.775 (4) (b) 2. ~~A pass-through entity that pays the tax withheld under sub-~~  
25 ~~(2) as provided under subd. 1. is not subject to an underpayment of estimated tax~~

1 under s. 71.09 or 71.29, if 90 percent of the tax that is due for the current taxable year  
2 is paid by the unextended due date or if 100 percent of the tax that is due for the  
3 taxable year immediately preceding the current taxable year is paid by the  
4 unextended due date and the taxable year immediately preceding the current  
5 taxable year was a 12-month period. Interest Except as provided in par. (f), interest  
6 at the rate of 12 percent shall be imposed on the unpaid amount of the tax withheld  
7 due under sub. (2) during any extension period and interest at the rate of 18 percent  
8 shall be imposed on the unpaid amount of the tax withheld due under sub. (2) for the  
9 period beginning with the extended due date and ending with the date that the  
10 unpaid amount is paid in full.

11 **SECTION 2134.** 71.775 (4) (d) of the statutes is amended to read:

12 71.775 (4) (d) A nonresident partner, member, shareholder, or beneficiary of a  
13 pass-through entity may claim a credit, as prescribed by the department, on his or  
14 her Wisconsin income or franchise tax return for the amount withheld under sub. (2)  
15 on his or her behalf for the tax period for which the income of the pass-through entity  
16 is reported. For purposes of this paragraph determining whether interest under s.  
17 71.84 applies to a nonresident partner, member, shareholder, or beneficiary, the  
18 amount withheld under sub. (2) is considered to be paid on the last day of the  
19 pass-through entity's taxable year for which the tax is paid in 4 equal quarterly  
20 installments.

21 **SECTION 2135.** 71.775 (4) (f) of the statutes is amended to read:

22 71.775 (4) (f) If a pass-through entity subject to withholding under this section  
23 fails to withhold pay the tax as required by this section, the pass-through entity shall  
24 be liable for any unpaid tax, interest, and penalties otherwise assessable to the  
25 nonresident partner, member, shareholder, or beneficiary with respect to income

1 ~~from the pass-through entity.~~ If a nonresident partner, member, shareholder, or  
2 beneficiary of the pass-through entity files a return and pays the tax due, the  
3 pass-through entity shall not be liable for the tax, but shall be liable for any interest  
4 ~~and penalties otherwise applicable for failure to withhold,~~ as the penalty provided  
5 under ss. 71.82 (2) (d) and s. 71.83 (1) (a) 1. and for any interest otherwise assessable  
6 to the nonresident partner, member, shareholder, or beneficiary with respect to  
7 income from the pass-through entity.

8 **SECTION 2135e.** 71.78 (2) of the statutes is amended to read:

9 **71.78 (2) DISCLOSURE OF NET TAX.** The department shall make available upon  
10 suitable forms prepared by the department information setting forth the net  
11 Wisconsin income tax, Wisconsin franchise tax, or Wisconsin gift tax reported as paid  
12 or payable in the returns filed by any individual or corporation, and any amount of  
13 delinquent taxes owed, ~~as described in s. 73.03 (62),~~ by any such individual or  
14 corporation, for any individual year upon request. When making available  
15 information setting forth the delinquent taxes owed by an individual or corporation,  
16 the information shall include interest, penalties, fees, and costs, which are unpaid  
17 for more than 90 days after all appeal rights have expired, except that such  
18 information may not be provided for any person who has reached an agreement or  
19 compromise with the department, or the department of justice, under s. 71.92 and  
20 is in compliance with that agreement, regarding the payment of delinquent taxes,  
21 or the name of any person who is protected by a stay that is in effect under the Federal  
22 Bankruptcy Code. Before the request is granted, the person desiring to obtain the  
23 information shall prove his or her identity and shall be required to sign a statement  
24 setting forth the person's address and reason for making the request and indicating  
25 that the person understands the provisions of this section with respect to the

1 divulgement, publication or dissemination of information obtained from returns as  
2 provided in sub. (1). The use of a fictitious name is a violation of this section. Within  
3 24 hours after any information from any such tax return has been so obtained, the  
4 department shall mail to the person from whose return the information has been  
5 obtained a notification which shall give the name and address of the person obtaining  
6 the information and the reason assigned for requesting the information. The  
7 department shall collect from the person requesting the information a fee of \$4 for  
8 each return.

9 **SECTION 2136.** 71.80 (20) of the statutes is amended to read:

10 **71.80 (20) MAGNETIC MEDIA ELECTRONIC FILING.** If the internal revenue service  
11 requires a person to file information returns or wage statements ~~on magnetic media~~  
12 ~~or in other machine-readable form~~ electronically for federal income tax purposes, the  
13 person shall also file the comparable state information returns or wage statements  
14 ~~on magnetic media or in other machine-readable form~~ electronically with the  
15 department of revenue for income or franchise tax purposes.

16 **SECTION 2137.** 71.805 of the statutes is created to read:

17 **71.805 Tax avoidance transactions voluntary compliance program. (1)**

18 **DEFINITIONS.** In this section:

19 (a) "Tax avoidance transaction" means a transaction, plan, or arrangement  
20 devised for the principal purpose of avoiding federal or Wisconsin income or  
21 franchise tax. "Tax avoidance transaction" includes a listed transaction as provided  
22 under U.S. department of the treasury regulations as of the effective date of this  
23 paragraph .... [revisor inserts date], and may include a transaction, as determined  
24 by the department, that provides a tax benefit for Wisconsin income or franchise tax  
25 purposes without providing a similar benefit for federal income tax purposes.

1 (b) "Taxpayer" means a person who is subject to the taxes imposed under this  
2 chapter and who has a tax liability attributable to using a tax avoidance transaction  
3 for any taxable year beginning before January 1, 2007.

4 (2) PENALTY WAIVER OR ABATEMENT. All of the following apply with regard to a  
5 taxpayer who satisfies the conditions under sub. (3):

6 (a) Except as provided under sub. (4) (b), the department shall waive or abate  
7 all penalties that are applicable to the underreporting or underpayment of Wisconsin  
8 income or franchise taxes attributable to using a tax avoidance transaction for any  
9 taxable year for which the taxpayer satisfies the conditions under sub. (3).

10 (b) The department shall not seek a criminal prosecution against the taxpayer  
11 with respect to using a tax avoidance transaction for any taxable year for which the  
12 taxpayer satisfies the conditions under sub. (3).

13 (3) TAXPAYER ELIGIBILITY. A taxpayer is eligible for the benefits described under  
14 sub. (2) (a) and (b), if, during the period beginning on the first day of the 3rd month  
15 beginning after publication .... [revisor inserts date], and ending on the last day of  
16 the 7th month beginning after publication .... [revisor inserts date], the taxpayer  
17 does the following:

18 (a) Files an amended Wisconsin tax return for each taxable year for which the  
19 taxpayer has previously filed a Wisconsin tax return that uses a tax avoidance  
20 transaction to underreport the taxpayer's Wisconsin income or franchise tax liability  
21 and the amended return reports the total Wisconsin net income and tax for the  
22 taxable year, computed without regard to any tax avoidance transaction and without  
23 regard to any other adjustment that is unrelated to any tax avoidance transaction.

24 (b) Pays, in full, for each taxable year for which an amended return is filed  
25 under par. (a), the entire amount of Wisconsin income or franchise tax and interest

1 due that is attributable to using a tax avoidance transaction, except that the  
2 secretary of revenue may enter into an agreement with the taxpayer to make  
3 payments in installments. A taxpayer who does not comply with an installment  
4 agreement provided under this paragraph is ineligible to receive the benefits  
5 described under sub. (2) (a) and (b) and the total amount of tax, interest, and  
6 penalties shall be immediately due and payable.

7 **(4) LIMITATIONS AND ADMINISTRATION.** (a) A taxpayer who receives the benefits  
8 described under sub. (2) may not file an appeal or a claim for credit or refund with  
9 respect to the tax avoidance transactions for the taxable years for which the taxpayer  
10 satisfied the conditions under sub. (3), except to the extent that a timely filed appeal  
11 or claim for a refund results from an adjustment to the taxpayer's federal income tax  
12 liability regarding such transactions.

13 (b) The department may not waive or abate a penalty as provided under sub.  
14 (2) (a) if the penalty relates to an amount of Wisconsin income and franchise tax that  
15 is attributable to a tax avoidance transaction and assessed and paid prior to the first  
16 day of the 3rd month beginning after publication ... [revisor inserts date], or after  
17 the last day of the 7th month beginning after publication .... [revisor inserts date].

18 **SECTION 2138.** 71.81 of the statutes is created to read:

19 **71.81 Disclosing reportable transactions. (1) DEFINITIONS.** In this section:

20 (a) "Listed transaction" means any reportable transaction that is the same as,  
21 or substantially similar to, a transaction, plan, or arrangement specifically identified  
22 by the U.S. secretary of the treasury as a listed transaction, for purposes of section  
23 6011 of the Internal Revenue Code and that is specifically identified by the U.S.  
24 secretary of the treasury as a listed transaction on or after the date the transaction  
25 occurred.

1 (b) "Material advisor" means any person who provides any material aid,  
2 assistance, or advice with respect to organizing, managing, promoting, selling,  
3 implementing, insuring, or carrying out any reportable transaction and who, directly  
4 or indirectly, derives gross income from providing such aid, assistance, or advice in  
5 an amount that exceeds the threshold amount.

6 (c) "Reportable transaction" means any transaction, plan, or arrangement,  
7 including a listed transaction, for which a taxpayer is required to submit information  
8 to the department because the taxpayer is required to disclose the transaction, plan,  
9 or arrangement for federal income tax purposes for the taxable year in which the  
10 transaction occurred, as provided under U.S. department of treasury regulations.

11 (d) "Tax shelter" means any entity, plan, or arrangement, if avoiding or evading  
12 federal income tax or Wisconsin income or franchise tax is a significant purpose of  
13 the entity, plan, or arrangement.

14 (e) "Threshold amount" means the following:

15 1. In the case of a reportable transaction, not including a listed transaction,  
16 from which the tax benefits are provided primarily to an individual, \$50,000.

17 2. In the case of a listed transaction from which the tax benefits are provided  
18 primarily to an individual, \$10,000.

19 3. In the case of a reportable transaction, not including a listed transaction,  
20 from which the tax benefits are provided primarily to an entity and not an individual,  
21 \$250,000.

22 4. In the case of a listed transaction, from which the tax benefits are provided  
23 primarily to an entity and not an individual, \$25,000.

24 (2) DISCLOSURE. For each taxable year in which a taxpayer has participated in  
25 a reportable transaction, the taxpayer shall file with the department a copy of any



1 form required by the internal revenue service for disclosing the reportable  
2 transaction for federal income tax purposes no later than 60 days after the date for  
3 which the taxpayer is required to file the form for federal income tax purposes, except  
4 that, if the taxpayer has filed a form with the internal revenue service on or before  
5 the effective date of this subsection .... [revisor inserts date], the taxpayer shall file  
6 a copy of the form with the department no later than the last day of the 7th month  
7 beginning after publication .... [revisor inserts date]. The department may require  
8 that forms filed with the department under this subsection be filed separately from  
9 this state's income or franchise tax return. This subsection applies to any reportable  
10 transaction entered into on or after January 1, 2001, or any reportable transaction  
11 entered into prior to January 1, 2001, that reduced the taxpayer's tax liability for  
12 taxable years beginning on or after January 1, 2001, for any taxable year for which  
13 the transaction remains undisclosed and for which the statute of limitations on  
14 assessment, including any extension provided under sub. (6), has not expired as of  
15 the date that is 60 days after the effective date of this subsection .... [revisor inserts  
16 date].

17 **(3) PENALTY FOR FAILING TO DISCLOSE.** (a) Any taxpayer who does not file the  
18 form under sub. (2) and who is required to file the form is subject to the following  
19 penalty:

20 1. If the taxpayer participated in a reportable transaction that is not a listed  
21 transaction, the lesser of \$15,000 or 10 percent of the tax benefit obtained from the  
22 reportable transaction.

23 2. If the taxpayer participated in a listed transaction, \$30,000.

24 (b) The secretary of revenue may waive or abate any penalty imposed under  
25 this subsection, or any portion of such penalty, related to a reportable transaction

1 that is not a listed transaction, if the waiver or abatement promotes compliance with  
2 this section and effective tax administration. Notwithstanding any other law or rule,  
3 a determination by the secretary of revenue under this paragraph may not be  
4 reviewed in any judicial proceeding.

5 (c) The penalties imposed under this subsection apply to any failure to disclose  
6 a listed transaction entered into on or after January 1, 2001, or entered into prior to  
7 January 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning  
8 on or after January 1, 2001, including transactions that were not listed transactions  
9 when entered into, but became listed transactions before the effective date of this  
10 paragraph .... [revisor inserts date], or any other reportable transaction entered into  
11 after the effective date of this paragraph .... [revisor inserts date], for any taxable  
12 year for which the statute of limitations on assessment, including any extension  
13 under sub. (6), has not expired as of the effective date of this paragraph .... [revisor  
14 inserts date].

15 (4) UNDERSTATEMENT PENALTY. (a) If a taxpayer has a reportable transaction  
16 understatement, as determined in par. (b), the taxpayer shall pay, in addition to any  
17 tax owed with regard to the reportable transaction, an amount equal to either 20  
18 percent of the reportable transaction understatement or, in the case of a reportable  
19 transaction that is not disclosed as provided in sub. (2), 30 percent of the reportable  
20 transaction understatement.

21 (b) A taxpayer has a reportable transaction understatement if the following  
22 calculation results in a positive number:

23 1. Multiply the taxpayer's highest applicable tax rate under s. 71.06, 71.27, or  
24 71.46, by the amount of any increase in Wisconsin taxable income that results from  
25 the difference between the proper tax treatment of a reportable transaction and the

1 taxpayer's treatment of the transaction as shown on the taxpayer's tax return,  
2 including any amended return the taxpayer files before the date on which the  
3 department first contacts the taxpayer regarding an examination of the taxable year  
4 for which the amended return is filed. For purposes of this subdivision, the amount  
5 of any increase in Wisconsin taxable income for a taxable year includes any reduction  
6 in the amount of loss available for carry-forward to the subsequent year.

7 2. Add the amount determined under subd. 1. to the amount of any decrease  
8 in the aggregate amount of Wisconsin income or franchise tax credits that results  
9 from the difference between the proper tax treatment of a reportable transaction and  
10 the taxpayer's treatment of the transaction as shown on the taxpayer's tax return.

11 (c) The secretary of revenue may waive or abate any penalty imposed under this  
12 subsection, or any portion of such penalty, if the taxpayer demonstrates to the  
13 department that the taxpayer had reasonable cause to act the way the taxpayer did,  
14 and in good faith, with regard to the tax treatment for which the taxpayer is subject  
15 to a penalty under this subsection and all facts relevant to the tax treatment are  
16 adequately disclosed in the filing under sub. (2), except that, if the taxpayer does not  
17 fully disclose such facts under sub. (2), the taxpayer's penalty may be waived or  
18 abated under this paragraph if the taxpayer demonstrates to the department that  
19 the taxpayer reasonably believed that the tax treatment for which the taxpayer is  
20 subject to a penalty under this subsection was more likely than not the proper  
21 treatment and substantial authority exists or existed for the tax treatment for which  
22 the taxpayer is subject to a penalty under this subsection. Notwithstanding any  
23 other law or rule, a determination by the secretary of revenue under this paragraph  
24 may not be reviewed in any judicial proceeding.

1 (d) The penalties under par. (a) apply to any reportable transaction  
2 understatement from a reportable transaction, including a listed transaction,  
3 entered into on or after January 1, 2001, or entered into prior to January 1, 2001, that  
4 reduced the taxpayer's tax liability for taxable years beginning on or after January  
5 1, 2001, for any taxable year for which the statute of limitations on assessment,  
6 including any extension provided under sub. (6), has not expired as of the effective  
7 date of this paragraph .... [revisor inserts date].

8 (5) ADDITIONAL UNDERSTATEMENT PENALTY. (a) 1. In addition to the penalty under  
9 sub. (4) (a), a taxpayer who files an amended return after the last day of the 7th  
10 month beginning after publication .... [revisor inserts date], and before the taxpayer  
11 is contacted by the internal revenue service or the department regarding a reportable  
12 transaction is subject to a penalty in an amount equal to 50 percent of the interest  
13 assessed under s. 71.82 on any reportable transaction understatement, as  
14 determined under sub. (4) (b), for the tax period for which the taxpayer files an  
15 amended return.

16 2. If the internal revenue service or the department contacts a taxpayer after  
17 the last day of the 7th month beginning after publication .... [revisor inserts date],  
18 regarding a reportable transaction and the taxpayer is contacted before the taxpayer  
19 files an amended return with respect to that transaction, the taxpayer is subject to  
20 a penalty in an amount equal to the interest assessed under s. 71.82 on any  
21 reportable transaction understatement, as determined under sub. (4) (b), for the tax  
22 period for which the internal revenue service or the department contacts the  
23 taxpayer.

24 (b) The penalties under par. (a) apply to any reportable transaction  
25 understatement resulting from a reportable transaction, including a listed

1 transaction, entered into on or after January 1, 2001, or entered into prior to January  
2 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or  
3 after January 1, 2001, for any taxable year for which the statute of limitations on  
4 assessment, including any extension provided under sub. (6), has not expired as of  
5 the effective date of this paragraph.... [revisor inserts date].

6 (c) The secretary of revenue may waive or abate any penalty imposed under this  
7 subsection, or any portion of such penalty, if the taxpayer demonstrates to the  
8 department that the taxpayer had reasonable cause to act the way the taxpayer did,  
9 and in good faith, with regard to the tax treatment for which the taxpayer is subject  
10 to a penalty under this subsection and all facts relevant to the tax treatment are  
11 adequately disclosed in the filing under sub. (2), except that, if the taxpayer does not  
12 fully disclose such facts under sub. (2), the taxpayer's penalty may be waived or  
13 abated under this paragraph if the taxpayer demonstrates to the department that  
14 the taxpayer reasonably believed that the tax treatment for which the taxpayer is  
15 subject to a penalty under this subsection was more likely than not the proper  
16 treatment and substantial authority exists or existed for the tax treatment for which  
17 the taxpayer is subject to a penalty under this subsection. Notwithstanding any  
18 other law or rule, a determination by the secretary of revenue under this paragraph  
19 may not be reviewed in any judicial proceeding.

20 (6) STATUTE OF LIMITATIONS EXTENSION. (a) Except as provided in par. (b), if a  
21 taxpayer fails to provide any information regarding a reportable transaction, other  
22 than a listed transaction, under sub. (2), the time for assessing any tax imposed  
23 under this chapter with respect to that transaction shall expire no later than the date  
24 that is 6 years after the date on which the return for the taxable year in which the  
25 reportable transaction occurred was filed. If a taxpayer fails to provide any

1 information regarding a listed transaction, under sub. (2), the time for assessing any  
2 tax imposed under this chapter with respect to that transaction shall expire on the  
3 latest of the following dates:

4 1. The date that is 6 years after the date on which the return for the taxable  
5 year in which the listed transaction occurred was filed.

6 2. The date that is 12 months after the date on which the taxpayer provides  
7 information regarding the listed transaction under sub. (2).

8 3. The date that is 12 months after the date on which the taxpayer's material  
9 advisor provides, at the department's request, the list described in sub. (7) (b).

10 4. The date that is 4 years after the date on which the department discovers  
11 a listed transaction that was a listed transaction on the date the transaction occurred  
12 for which the taxpayer did not provide the information described under sub. (2) or  
13 for which the taxpayer's material advisor did not provide the information described  
14 under sub (7) (b).

15 (b) Any limitation determined under par. (a) may be extended by a written  
16 agreement between the taxpayer and the department as provided under s. 71.77 (5).

17 (c) This subsection applies to any reportable transaction, including a listed  
18 transaction entered into on or after January 1, 2001, or entered into prior to January  
19 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or  
20 after January 1, 2001.

21 (7) MATERIAL ADVISOR. (a) Each material advisor who is required to disclose a  
22 reportable transaction under section 6111 of the Internal Revenue Code shall file a  
23 copy of the disclosure with the department no later than 60 days after the date for  
24 which the material advisor is required to file the disclosure with the internal revenue  
25 service, except that, if a material advisor files the disclosure with the internal

1 revenue service on or before the effective date of this paragraph .... [revisor inserts  
2 date], the material advisor shall file a copy of the disclosure with the department no  
3 later than the last day of the 7th month beginning after publication .... [revisor  
4 inserts date].

5 (b) Each material advisor shall maintain a list that identifies each Wisconsin  
6 taxpayer for whom the person provided services as a material advisor with respect  
7 to a reportable transaction, regardless of whether the taxpayer is required to file the  
8 form under sub. (2). Any material advisor who is required to maintain a list under  
9 this paragraph shall provide the list to the department after receiving the  
10 department's written request to provide the list and shall retain the information  
11 contained in the list for 7 years or for the period determined by the department by  
12 rule. If 2 or more material advisors are required under this paragraph to maintain  
13 identical lists, the department may provide that only one of the material advisors  
14 maintain the list.

15 (c) This subsection applies to reportable transactions, not including listed  
16 transactions, for which a material advisor provides services after the effective date  
17 of this paragraph .... [revisor inserts date], and listed transactions for which a  
18 material advisor provides services, and were entered into, on or after January 1,  
19 2001, or were entered into prior to January 1, 2001, and that reduced the taxpayer's  
20 tax liability for taxable years beginning on or after January 1, 2001, regardless of  
21 when the transactions became listed transactions.

22 (8) MATERIAL ADVISOR PENALTIES. (a) If a person who is required to file a  
23 disclosure with the department as provided under sub. (7) (a) fails to file the  
24 disclosure or files a disclosure containing false or incomplete information, the person  
25 is subject to a penalty equal to the following amounts:

1           1. If the disclosure relates to a reportable transaction that is not a listed  
2 transaction, \$15,000.

3           2. If the disclosure relates to a listed transaction, \$100,000.

4           (b) Any person who is required to maintain a list under sub. (7) (b) and who fails  
5 to provide the list to the department no later than 20 business days after the date on  
6 which the person receives the department's request to provide the list, as provided  
7 under sub. (7) (b), shall pay a penalty to the department in an amount that is equal  
8 to \$10,000 for each day that the person does not provide the list, beginning with the  
9 day that is 21 business days after the date on which the person receives the  
10 department's request.

11           (c) The secretary of revenue may waive or abate any penalty imposed under this  
12 subsection, or any portion of such penalty, related to a reportable transaction that  
13 is not a listed transaction, if the waiver or abatement promotes compliance with this  
14 section and effective tax administration or, with regard to the penalty imposed under  
15 par. (b), if, on each day after the time for providing the list without incurring a  
16 penalty has expired, the person demonstrates to the department that the person's  
17 failure to provide the list on that day is because of reasonable cause.  
18 Notwithstanding any other law or rule, a determination by the secretary of revenue  
19 under this paragraph may not be reviewed in any judicial proceeding.

20           **(9) TAX SHELTER PROMOTION.** (a) Beginning on the effective date of this  
21 paragraph .... [revisor inserts date], any person who organizes or assists in  
22 organizing a tax shelter, or directly or indirectly participates in the sale of any  
23 interest in a tax shelter, and who makes or provides or causes another person to make  
24 or provide, in connection with such organization or sale, a statement that the person  
25 knows or has reason to know is false or fraudulent as to any material matter



1 regarding the allowability of any tax deduction or credit, the excludability of any  
2 income, the manipulation of any allocation or apportionment rule, or the securing of  
3 any other tax benefit resulting from holding an interest in the entity or participating  
4 in the plan or arrangement, shall pay a penalty to the department, with respect to  
5 each sale or act of organization described under this paragraph, in an amount equal  
6 to 50 percent of the person's gross income derived from the sale or act.

7 (b) For purposes of administering this chapter, beginning on the effective date  
8 of this paragraph ... [revisor inserts date], a written communication to any person,  
9 director, officer, employee, agent, or representative of the person, or any other person  
10 holding a capital or profits interest in the person, regarding the promotion of, or  
11 advice with respect to, the person's direct or indirect participation in any tax shelter  
12 is not considered a confidential or privileged communication.

13 (11) INJUNCTION. The department may commence an action in the circuit court  
14 of Dane County to enjoin a person from taking any action, or failing to take any  
15 action, that is subject to a penalty under this section or in violation of this section or  
16 any rules that the department promulgates pursuant to this section.

17 **SECTION 2139.** 71.83 (1) (a) 1. of the statutes is amended to read:

18 71.83 (1) (a) 1. 'Failure to file.' In case of failure to file any return required  
19 under s. 71.03, 71.24 ~~or~~, 71.44, or 71.775 on the due date prescribed therefor,  
20 including any applicable extension of time for filing, unless it is shown that the  
21 failure is due to reasonable cause and not due to willful neglect, there shall be added  
22 to the amount required to be shown as tax on the return 5% of the amount of the tax  
23 if the failure is for not more than one month, with an additional 5% for each  
24 additional month or fraction thereof during which the failure continues, not  
25 exceeding 25% in the aggregate. For purposes of this subdivision, the amount of tax

**SECTION 2139**

1 required to be shown on the return shall be reduced by the amount of any part of the  
2 tax which is paid on or before the due date prescribed for payment and by the amount  
3 of any credit against the tax which may be claimed upon the return.

4 **SECTION 2139e.** 71.83 (1) (a) 6. of the statutes is amended to read:

5 71.83 (1) (a) 6. 'Retirement plans.' Any natural person who is liable for a  
6 penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973,  
7 4974, 4975, or 4980A of the ~~internal revenue code~~ Internal Revenue Code is liable  
8 for 33% of the federal penalty unless the income received is exempt from taxation  
9 under s. 71.05 (1) (a) or (ae). The penalties provided under this subdivision shall be  
10 assessed, levied, and collected in the same manner as income or franchise taxes.

11 **SECTION 2140.** 71.90 (2) of the statutes is amended to read:

12 71.90 (2) ~~DEPOSIT WITH THE SECRETARY OF ADMINISTRATION~~ DEPARTMENT. At any  
13 time while the petition is pending before the tax appeals commission or an appeal  
14 in regard to that petition is pending in a court, the taxpayer may offer to deposit the  
15 entire amount of the additional taxes, penalties, and fines, together with interest,  
16 with the ~~secretary of administration~~. If an offer to deposit is made, the department  
17 of revenue shall issue a certificate to the secretary of administration authorizing the  
18 secretary to ~~accept payment of such taxes together with interest to the first day of~~  
19 ~~the succeeding month and to give a receipt~~. A copy of the certificate shall be mailed  
20 to the taxpayer who shall pay the taxes and interest to the secretary of  
21 administration within 30 days. A copy of the receipt of the secretary of  
22 administration shall be filed with the department. The department shall, upon final  
23 determination of the appeal, certify to the secretary of administration the amount  
24 of the taxes as finally determined and direct the secretary of administration to refund  
25 to the appellant any portion of such payment which has been found to have been

1 ~~improperly assessed, including interest. The secretary of administration shall make~~  
2 ~~the refunds directed by the certificate within 30 days after receipt. Taxes paid to the~~  
3 ~~secretary of administration under this subsection shall be subject to the interest~~  
4 ~~provided by ss. 71.82 and 71.91 (1) (c) only to the extent of the interest accrued on~~  
5 ~~the taxes prior to the first day of the month succeeding the application for hearing.~~  
6 ~~Any portion of the amount deposited with the secretary of administration which is~~  
7 ~~refunded to the taxpayer shall bear interest at the rate of 9% per year during the time~~  
8 ~~that the funds are on deposit.~~

9 **SECTION 2141.** 71.93 (1) (a) 2. of the statutes is amended to read:

10 71.93 (1) (a) 2. A delinquent child support or spousal support obligation that  
11 has been reduced to a judgment and has been submitted by an agency of another  
12 state to the department of ~~workforce development~~ children and families for  
13 certification under this section.

14 **SECTION 2142.** 71.93 (1) (a) 4. of the statutes is amended to read:

15 71.93 (1) (a) 4. An amount that the department of ~~workforce development~~  
16 children and families may recover under s. 49.161 or 49.195 (3) or collect under s.  
17 49.147 (6) (cm), if the department of ~~workforce development~~ children and families  
18 has certified the amount under s. 49.85.

19 **SECTION 2143m.** 73.01 (4) (e) 2. of the statutes is amended to read:

20 73.01 (4) (e) 2. Except for hearings on ss. 341.405 and 341.45, the department  
21 of revenue may choose not to appeal and to nonacquiesce in the decision or order by  
22 sending a notice of nonacquiescence to the clerk of the commission, to the ~~reviser of~~  
23 statutes legislative reference bureau for publication in the Wisconsin administrative  
24 register and to the taxpayer or the taxpayer's representative before the time expires  
25 for seeking a review of the decision or order under s. 73.015. The effect of this action

1 is that, although the decision or order is binding on the parties for the instant case,  
2 the commission's conclusions of law, the rationale and construction of statutes in the  
3 instant case are not binding upon or required to be followed by the department of  
4 revenue in other cases.

5 **SECTION 2146.** 73.03 (2a) of the statutes is amended to read:

6 73.03 (2a) ~~To prepare, have published and distribute to each property tax~~  
7 ~~assessor and to others who so request and publish, in electronic form and on the~~  
8 Internet, assessment manuals. The manual shall discuss and illustrate accepted  
9 assessment methods, techniques and practices with a view to more nearly uniform  
10 and more consistent assessments of property at the local level. The manual shall be  
11 amended by the department from time to time to reflect advances in the science of  
12 assessment, court decisions concerning assessment practices, costs, and statistical  
13 and other information considered valuable to local assessors by the department. The  
14 manual shall incorporate standards for the assessment of all types of renewable  
15 energy resource systems used in this state as soon as such systems are used in  
16 sufficient numbers and sufficient data exists to allow the formulation of valid  
17 guidelines. The manual shall incorporate standards, which the department of  
18 revenue and the state historical society of Wisconsin shall develop, for the  
19 assessment of nonhistoric property in historic districts and for the assessment of  
20 historic property, including but not limited to property that is being preserved or  
21 restored; property that is subject to a protective easement, covenant or other  
22 restriction for historic preservation purposes; property that is listed in the national  
23 register of historic places in Wisconsin or in this state's register of historic places and  
24 property that is designated as a historic landmark and is subject to restrictions  
25 imposed by a municipality or by a landmarks commission. The manual shall

1 incorporate general guidelines about ways to determine whether property is taxable  
2 in part under s. 70.1105 and examples of the ways that s. 70.1105 applies in specific  
3 situations. The manual shall state that assessors are required to comply with s. 70.32  
4 (1g) and shall suggest procedures for doing so. The manual or a supplement to it shall  
5 specify per acre value guidelines for each municipality for various categories of  
6 agricultural land based on the income that could be generated from its estimated  
7 rental for agricultural use, as defined by rule, and capitalization rates established  
8 by rule. The manual shall include guidelines for classifying land as agricultural  
9 land, as defined in s. 70.32 (2) (c) 1g., and guidelines for distinguishing between land  
10 and improvements to land. The cost of the development, preparation, and Internet  
11 ~~publication and distribution~~ of the manual and of revisions and amendments to it  
12 ~~shall be borne by the assessors and requesters at an individual volume cost or a~~  
13 ~~subscription cost as determined by the department. All receipts shall be credited to~~  
14 ~~paid from the appropriation under s. 20.566 (2) (hi). The department may provide~~  
15 ~~free assessment manuals to other state agencies or exchange them at no cost with~~  
16 ~~agencies of other states or of the federal government for similar information or~~  
17 ~~publications (b).~~

18 **SECTION 2147.** 73.03 (28e) of the statutes is created to read:

19 73.03 (28e) To participate as a member state of the streamlined sales tax  
20 governing board which administers the agreement, as defined in s. 77.65 (2) (a), and  
21 includes having the governing board enter into contracts that are necessary to  
22 implement the agreement on behalf of the member states, and to allocate a portion  
23 of the amount collected under ch. 77 through the agreement to the appropriation  
24 under s. 20.566 (1) (ho) to pay the dues necessary to participate in the governing

1 board. The department shall allocate the remainder of such collections to the general  
2 fund.

3 **SECTION 2148.** 73.03 (50) (c) of the statutes is amended to read:

4 73.03 (50) (c) In the case of an applicant who is an individual and who has a  
5 social security number, sets forth the social security number of the applicant or, in  
6 the case of an applicant who is an individual and who does not have a social security  
7 number, submits a statement made or subscribed under oath or affirmation that the  
8 applicant does not have a social security number. The form of the statement shall  
9 be prescribed by the department of ~~workforce development~~ children and families. A  
10 certificate issued in reliance upon a false statement submitted under this paragraph  
11 is invalid.

12 **SECTION 2149.** 73.03 (50) (d) of the statutes is amended to read:

13 73.03 (50) (d) In the case of a sole proprietor, signs the form or, in the case of  
14 other persons, has an individual who is authorized to act on behalf of the person sign  
15 the form, or, in the case of a single-owner entity that is disregarded as a separate  
16 entity under section 7701 of the Internal Revenue Code, the person is the owner. Any  
17 person who may register under this subsection may designate an agent, as defined  
18 in s. 77.524 (1) (ag), to register with the department under this subsection in the  
19 manner prescribed by the department. In this paragraph, "sign" has the meaning  
20 given in s. 77.51 (17r).

21 **SECTION 2150.** 73.03 (50b) of the statutes is created to read:

22 73.03 (50b) To waive the fee established under sub. (50) for applying for and  
23 renewing the business tax registration certificate, if the person who is applying for  
24 or renewing the certificate is not required for purposes of ch. 77 to hold such a  
25 certificate.

1       **SECTION 2151.** 73.03 (50m) of the statutes is amended to read:

2       73.03 (**50m**) To enter into a memorandum of understanding with the  
3       department of ~~workforce development~~ children and families under s. 49.857. The  
4       department of revenue shall suspend, refuse to issue or refuse to renew any  
5       certificate issued under sub. (50) as provided in the memorandum of understanding  
6       entered into under s. 49.857. Notwithstanding ss. 71.78 and 77.61 (5), the  
7       department of revenue shall disclose to the department of ~~workforce development~~  
8       children and families the social security number of any applicant for a certificate  
9       issued under sub. (50) as provided in the memorandum of understanding.

10       **SECTION 2152.** 73.03 (52n) of the statutes is created to read:

11       73.03 (**52n**) To enter into agreements with federally recognized tribes located  
12       in this state that provide for offsetting state tax refunds against tribal obligations  
13       and to charge a fee up to \$25 per transaction to the debtor for the administrative costs  
14       of such setoffs. The administrative costs collected under this subsection shall be  
15       credited to the appropriation under s. 20.566 (1) (h). Setoffs under ss. 71.93, 71.935,  
16       and 73.03 (52) shall occur before setoffs under this subsection. Any legal proceeding  
17       to contest a setoff under this subsection shall be brought against the tribe under the  
18       process established by the tribe.

19       **SECTION 2153.** 73.03 (61) of the statutes is created to read:

20       73.03 (**61**) To do all of the following related to the Uniform Sales and Use Tax  
21       Administration Act:

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

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

1 (c) Consistent with the agreement, as defined in s. 77.65 (2) (a), establish  
2 performance standards and eligibility criteria for a seller that sells tangible personal  
3 property, items or property under s. 77.52 (1) (b) or (c), or taxable services in at least  
4 5 states that are signatories to the agreement, as defined in s. 77.65 (2) (a); that has  
5 total annual sales revenue of at least \$500,000,000; that has a proprietary system  
6 that calculates the amount of tax owed to each taxing jurisdiction in which the seller  
7 sells tangible personal property, items or property under s. 77.52 (1) (b) or (c), or  
8 taxable services; and that has entered into a performance agreement with the states  
9 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of  
10 this paragraph, "seller" includes an affiliated group of sellers using the same  
11 proprietary system to calculate the amount of tax owed in each taxing jurisdiction  
12 in which the sellers sell tangible personal property, items or property under s. 77.52  
13 (1) (b) or (c), or taxable services.

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

18 (e) Maintain a database that is accessible to sellers and certified service  
19 providers, as defined in s. 77.51 (1g), that indicates whether items defined in  
20 accordance with the Uniform Sales and Use Tax Administration Act are taxable or  
21 nontaxable.

22 (f) Maintain a database that is accessible to sellers and certified service  
23 providers, as defined in s. 77.51 (1g), and available in a downloadable format, that  
24 indicates tax rates, taxing jurisdiction boundaries, and zip code or address



1 assignments related to the administration of taxes imposed under subchs. III and V  
2 of ch. 77.

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

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

10 **SECTION 2153p.** 73.03 (62) of the statutes is amended to read:

11 73.03 (62) To prepare and maintain a list of all persons who owe delinquent  
12 taxes, including interest, penalties, fees, and costs, to the department, in excess of  
13 \$25,000 \$5,000, which are unpaid for more than 90 days after all appeal rights have  
14 expired, ~~and~~; to post the names of persons from this list on the Internet at a site that  
15 is created and maintained by the department for this purpose; and to distribute the  
16 posted information to Internet search engines so the information is searchable. The  
17 Internet site shall list the name, address, type of tax due, and amount of tax due,  
18 including interest, penalties, fees, and costs for each person who has one of the  
19 delinquent taxpayer accounts, and the Internet site shall also contain a special page  
20 for the persons who have the 100 largest delinquent taxpayer accounts. Except as  
21 otherwise provided in this subsection, the department shall update the Internet site  
22 on a quarterly basis, and shall send the updates to the Internet search engines. The  
23 department may not post on the Internet or distribute to Internet search engines the  
24 name of any person who has reached an agreement or compromise with the  
25 department, or the department of justice, under s. 71.92 and is in compliance with

1 that agreement, regarding the payment of delinquent taxes, or the name of any  
2 person who is protected by a stay that is in effect under the Federal Bankruptcy Code;  
3 the Internet posting and Internet search engines shall be updated each business day,  
4 as defined in s. 562.01 (3m), to comply with these prohibitions.

5 **SECTION 2154.** 73.03 (63) of the statutes is created to read:

6 73.03 (63) Notwithstanding the amount limitations specified under ss. 71.07  
7 (5b) (c) 1. and (5d) (c) 1., 71.28 (5b) (c) 1., 71.47 (5b) (c) 1., and 560.205 (3) (d), in  
8 consultation with the department of commerce, to carry forward to subsequent  
9 taxable years unclaimed credit amounts of the early stage seed investment credits  
10 under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b) and the angel investment credit under  
11 s. 71.07 (5d). Annually, no later than July 1, the department of commerce shall  
12 submit to the department of revenue its recommendations for the carry forward of  
13 credit amounts as provided under this subsection.

14 **SECTION 2155.** 73.0301 (1) (d) 2. of the statutes is amended to read:

15 73.0301 (1) (d) 2. A license issued by the department of ~~health and family~~  
16 ~~services~~ children and families under s. 48.66 (1) (a) to a child welfare agency, group  
17 home, shelter care facility, or day care center, as required by s. 48.60, 48.625, 48.65,  
18 or 938.22 (7).

19 **SECTION 2156m.** 73.0301 (1) (e) of the statutes, as affected by 2007 Wisconsin  
20 Act 1, is amended to read:

21 73.0301 (1) (e) "Licensing department" means the department of  
22 administration; the board of commissioners of public lands; the department of  
23 commerce; the department of children and families; the government accountability  
24 board; the department of financial institutions; the department of health and family  
25 services; the department of natural resources; the department of public instruction;

1 the department of regulation and licensing; the department of workforce  
2 development; the office of the commissioner of insurance; or the department of  
3 transportation.

4 **SECTION 2157.** 73.0301 (2) (c) 1. am. of the statutes is amended to read:

5 73.0301 (2) (c) 1. am. If the applicant is an individual and does not have a social  
6 security number, a statement made or subscribed under oath or affirmation that the  
7 applicant does not have a social security number. The form of the statement shall  
8 be prescribed by the department of ~~workforce development~~ children and families. A  
9 license issued in reliance upon a false statement submitted under this subd. 1. am.  
10 is invalid.

11 **SECTION 2158.** 73.0301 (2) (c) 2. of the statutes is amended to read:

12 73.0301 (2) (c) 2. A licensing department may not disclose any information  
13 received under subd. 1. a. or b. to any person except to the department of revenue for  
14 the purpose of requesting certifications under par. (b) 2. in accordance with the  
15 memorandum of understanding under sub. (4) and administering state taxes or to  
16 the department of ~~workforce development~~ children and families for the purpose of  
17 administering s. 49.22.

18 **SECTION 2159.** 74.09 (3) (b) 6m. of the statutes is created to read:

19 74.09 (3) (b) 6m. The amount of the credit under s. 79.10 (5m) allocable to the  
20 property for the previous year and the current year, and the percentage change  
21 between those years.

22 **SECTION 2160.** 74.09 (3) (b) 7. of the statutes is amended to read:

23 74.09 (3) (b) 7. The amount obtained by subtracting the ~~amount~~ amounts under  
24 ~~subd. subds. 6. and 6m.~~ from the amount under subd. 5., for the previous year and  
25 the current year, and the percentage change in that amount between those years.

1           **SECTION 2161.** 76.07 (4g) (b) 8. of the statutes is amended to read:

2           76.07 (4g) (b) 8. Determine transport-related revenue by adding public service  
3 revenue allocated to this state on the basis of routes for which the company is  
4 authorized to receive subsidy payments, mutual aid allocated to this state on the  
5 basis of the ratio of transport revenues allocated to this state to transport revenues  
6 everywhere in the previous year, in-flight sales allocated to this state as they are  
7 allocated under s. ~~77.51 (14r)~~ 77.522 and all other transport-related revenues from  
8 sales made in this state.

9           **SECTION 2161g.** 76.29 (1) (f) of the statutes is amended to read:

10           76.29 (1) (f) "Tax period" means each calendar year or portion of a calendar year  
11 from ~~January 1, 2004, to December 31, 2009.~~

12           **SECTION 2161h.** 76.29 (2) of the statutes is amended to read:

13           76.29 (2) IMPOSITION. There is imposed on every light, heat, and power company  
14 and electric cooperative that owns an electric utility plant, an annual license fee to  
15 be assessed by the department on or before May 1, 2005, and every May 1 thereafter,  
16 ~~ending with the assessment on May 1, 2010,~~ measured by the gross revenues of the  
17 preceding tax period in an amount equal to the apportionment factor multiplied by  
18 gross revenues multiplied by 1.59%. The fee shall become delinquent if not paid  
19 when due and when delinquent shall be subject to interest at the rate of 1.5% per  
20 month until paid. ~~Gross revenues earned by a light, heat, and power company after~~  
21 ~~December 31, 2009, are subject to the license fee imposed under s. 76.28 (2).~~ ~~Gross~~  
22 ~~revenues earned by an electric cooperative after December 31, 2009, are subject to~~  
23 ~~the license fee imposed under s. 76.48 (1r).~~

24           **SECTION 2161n.** 76.635 (1) (a) of the statutes is amended to read:

1           76.635 (1) (a) "Certified capital company" has the meaning given in s. 560.30  
2           (2) 560.29 (1) (a).

3           **SECTION 2161o.** 76.635 (1) (b) of the statutes is amended to read:

4           76.635 (1) (b) "Certified capital investment" has the meaning given in s. 560.30  
5           (4) 560.29 (1) (b).

6           **SECTION 2161p.** 76.635 (1) (c) of the statutes is amended to read:

7           76.635 (1) (c) "Investment date" has the meaning given in s. 560.30 (6) 560.29  
8           (1) (d).

9           **SECTION 2161q.** 76.635 (1) (d) of the statutes is amended to read:

10           76.635 (1) (d) "Investment pool" has the meaning given in s. 560.30 (7) 560.29  
11           (1) (e).

12           **SECTION 2161r.** 76.635 (1) (e) of the statutes is amended to read:

13           76.635 (1) (e) "Qualified investment" has the meaning given in s. 560.30 (11)  
14           560.29 (1) (g).

15           **SECTION 2161s.** 76.635 (4) (a) of the statutes is amended to read:

16           76.635 (4) (a) If a certified capital company is decertified, or an investment pool  
17           is disqualified, under s. 560.37, 2005 stats., before the certified capital company  
18           fulfills the investment requirement under s. 560.34 (1m) (a) 1., 2005 stats., with  
19           respect to the investment pool, any insurer that has received a credit under this  
20           section with respect to that investment pool shall repay that credit to the  
21           commissioner of insurance, for deposit in the general fund, and may not claim more  
22           credit in respect to that investment pool.

23           **SECTION 2161t.** 76.635 (4) (b) of the statutes is amended to read:

24           76.635 (4) (b) If a certified capital company fulfills the investment requirement  
25           under s. 560.34 (1m) (a) 1., 2005 stats., with respect to an investment pool but the

1 certified capital company is decertified, or an investment pool is disqualified, under  
2 s. 560.37, 2005 stats., before the certified capital company fulfills the investment  
3 requirement under s. 560.34 (1m) (a) 2., 2005 stats., for that investment pool, any  
4 insurer that has received a credit under this section with respect to that investment  
5 pool shall repay all credits that were claimed for taxable years after the taxable year  
6 that includes the 3rd anniversary of the investment date of the investment pool and  
7 may claim no more credits for taxable years after the taxable year that includes the  
8 3rd anniversary of the investment date of the investment pool.

9 **SECTION 2162.** 76.636 (1) (e) of the statutes is amended to read:

10 76.636 (1) (e) "Member of a targeted group" means a person who resides in an  
11 area designated by the federal government as an economic revitalization area, a  
12 person who is employed in an unsubsidized job but meets the eligibility requirements  
13 under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who  
14 is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay  
15 project position under s. 49.147 (3m), a person who is eligible for child care assistance  
16 under s. 49.155, a person who is a vocational rehabilitation referral, an economically  
17 disadvantaged youth, an economically disadvantaged veteran, a supplemental  
18 security income recipient, a general assistance recipient, an economically  
19 disadvantaged ex-convict, a qualified summer youth employee, as defined in 26 USC  
20 51 (d) (7), a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp  
21 recipient, if the person has been certified in the manner under s. 71.47 (1dj) (am) 3.  
22 by a designated local agency, as defined in s. 71.47 (1dj) (am) 2.

23 **SECTION 2163.** 76.636 (2) (b) of the statutes is amended to read:

24 76.636 (2) (b) The amount determined by multiplying the amount determined  
25 under s. 560.785 (1) (b) by the number of full-time jobs created in a development zone

1 and filled by a member of a targeted group and by then subtracting the subsidies paid  
2 under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m)  
3 (c) for those jobs.

4 **SECTION 2164.** 76.636 (2) (c) of the statutes is amended to read:

5 76.636 (2) (c) The amount determined by multiplying the amount determined  
6 under s. 560.785 (1) (c) by the number of full-time jobs created in a development zone  
7 and not filled by a member of a targeted group and by then subtracting the subsidies  
8 paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147  
9 (3m) (c) for those jobs.

10 **SECTION 2165.** 76.636 (2) (d) of the statutes is amended to read:

11 76.636 (2) (d) The amount determined by multiplying the amount determined  
12 under s. 560.785 (1) (bm) by the number of full-time jobs retained, as provided in the  
13 rules under s. 560.785, excluding jobs for which a credit has been claimed under s.  
14 71.47 (1dj), in an enterprise development zone under s. 560.797 and for which  
15 significant capital investment was made and by then subtracting the subsidies paid  
16 under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m)  
17 (c) for those jobs.

18 **SECTION 2166.** 76.636 (2) (e) of the statutes is amended to read:

19 76.636 (2) (e) The amount determined by multiplying the amount determined  
20 under s. 560.785 (1) (c) by the number of full-time jobs retained, as provided in the  
21 rules under s. 560.785, excluding jobs for which a credit has been claimed under s.  
22 71.47 (1dj), in a development zone and not filled by a member of a targeted group and  
23 by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and  
24 reimbursements paid under s. 49.147 (3m) (c) for those jobs.

1       **SECTION 2170.** 77.51 (1) of the statutes is renumbered 77.51 (1fd) and amended  
2 to read:

3           77.51 (1fd) "Business" includes any activity engaged in by any person or caused  
4 to be engaged in by any person with the object of gain, benefit or advantage, either  
5 direct or indirect, and includes also the furnishing and distributing of tangible  
6 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services  
7 for a consideration by social clubs and fraternal organizations to their members or  
8 others.

9       **SECTION 2172.** 77.51 (1b) of the statutes is created to read:

10           77.51 (1b) "Alcoholic beverage" means a beverage that is suitable for human  
11 consumption and that contains 0.5 percent or more of alcohol by volume.

12       **SECTION 2173.** 77.51 (1ba) of the statutes is created to read:

13           77.51 (1ba) "Ancillary services" means services that are associated with or  
14 incidental to providing telecommunications services, including detailed  
15 telecommunications billing, directory assistance, vertical service, and voice mail  
16 services.

17       **SECTION 2176.** 77.51 (1f) of the statutes is created to read:

18           77.51 (1f) "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) 1. 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 3. The retail sale of a service and items or property under s. 77.52 (1) (b) or (c),  
5 if such property or items are essential to the use of the service, and provided  
6 exclusively in connection with the service, and if the true object of the transaction  
7 is the service.

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

11 (d) A transaction that includes taxable and nontaxable products, if the seller's  
12 purchase price or the sales price of the taxable products is no greater than 10 percent  
13 of the seller's total purchase price or sales price of all the bundled products, as  
14 determined by the seller using either the seller's purchase price or sales price, but  
15 not a combination of both, or, in the case of a service contract, the full term of the  
16 service contract.

17 (e) The retail sale of taxable tangible personal property or items or property  
18 under s. 77.52 (1) (b) or (c) and tangible personal property or items or property under  
19 s. 77.52 (1) (b) or (c) that is exempt from the taxes imposed under this subchapter,  
20 if the transaction includes food and food ingredients, drugs, durable medical  
21 equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies  
22 and if the seller's purchase price or the sales price of the taxable tangible personal  
23 property or items or property under s. 77.52 (1) (b) or (c) is no greater than 50 percent  
24 of the seller's total purchase price or sales price of all the tangible personal property  
25 or items or property under s. 77.52 (1) (b) or (c) included in what would otherwise be

1 a bundled transaction, as determined by the seller using either the seller's purchase  
2 price or the sales price, but not a combination of both.

3 **SECTION 2177.** 77.51 (1fm) of the statutes is created to read:

4 77.51 (1fm) "Candy" means a preparation of sugar, honey, or other natural or  
5 artificial sweetener combined with chocolate, fruit, nuts, or other ingredients or  
6 flavorings in the form of bars, drops, or pieces. "Candy" does not include a  
7 preparation that contains flour or that requires refrigeration.

8 **SECTION 2178.** 77.51 (1j) of the statutes is created to read:

9 77.51 (1j) "Catalog" means a printed and bound, stitched, sewed, or stapled  
10 book containing a list and description of property or services for sale, regardless of  
11 whether a price is specified.

12 **SECTION 2179.** 77.51 (1n) of the statutes is created to read:

13 77.51 (1n) "Computer" means an electronic device that accepts information in  
14 digital or similar form and that manipulates such information to achieve a result  
15 based on a sequence of instructions.

16 **SECTION 2180.** 77.51 (1p) of the statutes is created to read:

17 77.51 (1p) "Computer software" means a set of coded instructions designed to  
18 cause a computer or automatic data processing equipment to perform a task.

19 **SECTION 2181.** 77.51 (1r) of the statutes is created to read:

20 77.51 (1r) "Conference bridging service" means an ancillary service that links  
21 2 or more participants of an audio or video conference call and may include providing  
22 a telephone number, but does not include the telecommunications services used to  
23 reach the conference bridge.

24 **SECTION 2182.** 77.51 (2k) of the statutes is created to read:

1           77.51 (2k) "Delivered electronically" means delivered to a purchaser by means  
2           other than by tangible storage media.

3           **SECTION 2183.** 77.51 (2m) of the statutes is created to read:

4           77.51 (2m) "Delivery charges" means charges by a seller to prepare and deliver  
5           tangible personal property, items or property under s. 77.52 (1) (b) or (c), or services  
6           to a location designated by the purchaser of the tangible personal property, items or  
7           property under s. 77.52 (1) (b) or (c), or services, including charges for transportation,  
8           shipping, postage, handling, crating, and packing.

9           **SECTION 2184.** 77.51 (3c) of the statutes is created to read:

10          77.51 (3c) "Detailed telecommunications billing service" means an ancillary  
11          service that separately indicates information pertaining to individual calls on a  
12          customer's billing statement.

13          **SECTION 2185.** 77.51 (3n) of the statutes is created to read:

14          77.51 (3n) "Dietary supplement" means a product, other than tobacco, that is  
15          intended to supplement a person's diet, if all of the following apply:

16                 (a) The product contains any of the following ingredients or any combination  
17                 of any of the following ingredients:

- 18                         1. A vitamin.
- 19                         2. A mineral.
- 20                         3. An herb or other botanical.
- 21                         4. An amino acid.
- 22                         5. A dietary substance that is intended for human consumption to supplement  
23                         the diet by increasing total dietary intake.
- 24                         6. A concentrate, metabolite, constituent, or extract.

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

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

7 **SECTION 2190.** 77.51 (3pd) of the statutes is created to read:

8 77.51 (3pd) "Direct mail" means printed material that is delivered by the U.S.  
9 postal service or other delivery service to a mass audience or to addressees on a  
10 mailing list provided by or at the direction of the purchaser of the printed material,  
11 if the cost of the printed material or any tangible personal property or items or  
12 property under s. 77.52 (1) (b) or (c) included with the printed material is not billed  
13 directly to the recipients of the printed material. "Direct mail" includes any tangible  
14 personal property or items or property under s. 77.52 (1) (b) or (c) provided directly  
15 or indirectly by the purchaser of the printed material to the seller of the printed  
16 material for inclusion in any package containing the printed material, including  
17 billing invoices, return envelopes, and additional marketing materials. "Direct mail"  
18 does not include multiple items of printed material delivered to a single address.

19 **SECTION 2191.** 77.51 (3pe) of the statutes is created to read:

20 77.51 (3pe) "Directory assistance" means an ancillary service that provides  
21 telephone numbers or addresses.

22 **SECTION 2192.** 77.51 (3pf) of the statutes is created to read:

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

1 (a) Packaging, including containers, boxes, sacks, bags, bottles, and envelopes;  
2 and other materials, including wrapping, labels, tags, and instruction guides; that  
3 accompany, and are incidental or 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 sales price of the other product does not vary  
6 depending on whether the product provided free of charge is included in the  
7 transaction.

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

9 **SECTION 2193.** 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 2194.** 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.

1           **SECTION 2195.** 77.51 (3pn) of the statutes is created to read:

2           77.51 (3pn) "Eight hundred service" means a telecommunications service that  
3 allows a caller to dial a toll-free number without incurring a charge for the call and  
4 is marketed under "800," "855," "866," "877," or "888" toll-free calling, or any other  
5 number designated as toll-free by the federal communications commission.

6           **SECTION 2196.** 77.51 (3po) of the statutes is created to read:

7           77.51 (3po) "Electronic" means relating to technology having electrical, digital,  
8 magnetic, wireless, optical, electromagnetic, or similar capabilities.

9           **SECTION 2198.** 77.51 (3rm) of the statutes is created to read:

10          77.51 (3rm) "Fixed wireless service" means a telecommunications service that  
11 provides radio communication between fixed points.

12          **SECTION 2199.** 77.51 (3t) of the statutes is created to read:

13          77.51 (3t) "Food and food ingredient" means a substance in liquid,  
14 concentrated, solid, frozen, dried, or dehydrated form, that is sold for ingestion, or  
15 for chewing, by humans and that is ingested or chewed for its taste or nutritional  
16 value. "Food and food ingredient" does not include alcoholic beverages or tobacco.

17          **SECTION 2200.** 77.51 (4) of the statutes, as affected by 2007 Wisconsin Act ....  
18 (this act), is repealed.

19          **SECTION 2199m.** 77.51 (4) (c) 1. of the statutes is amended to read:

20          77.51 (4) (c) 1. All receipts, cash, credits, and property except as provided in par.  
21 (b) 3., including credits for which a person's books and records show that the  
22 transaction created, with regard to the transferee, an obligation to pay a certain  
23 amount of money or an increase in accounts payable or, with regard to the transferor,  
24 a right to receive a certain amount of money or an increase in accounts receivable.

25          **SECTION 2201.** 77.51 (5) of the statutes is amended to read:

1           77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52  
2 (2m), “incidental” means depending upon or appertaining to something else as  
3 primary; something necessary, appertaining to, or depending upon another which is  
4 termed the principal; something incidental to the main purpose of the service.  
5 Tangible personal property, items or property under s. 77.52 (1) (b) or (c), transferred  
6 by a service provider is incidental to the service if the purchaser’s main purpose or  
7 objective is to obtain the service rather than the property or items, even though the  
8 property or items may be necessary or essential to providing the service.

9           **SECTION 2202.** 77.51 (5d) of the statutes is created to read:

10           77.51 (5d)       “International telecommunications services” means  
11 telecommunications services that originate or terminate in the United States,  
12 including the District of Columbia and any U.S. territory or possession and originate  
13 or terminate outside of the United States, including the District of Columbia and any  
14 U.S. territory or possession.

15           **SECTION 2203.** 77.51 (5n) of the statutes is created to read:

16           77.51 (5n)       “Interstate telecommunications services” means  
17 telecommunications services that originate in one state or U.S. territory or  
18 possession and terminate in a different state or U.S. territory or possession.

19           **SECTION 2204.** 77.51 (5r) of the statutes is created to read:

20           77.51 (5r)       “Intrastate telecommunications services” means  
21 telecommunications services that originate in one state or U.S. territory or  
22 possession and terminate in the same state or U.S. territory or possession.

23           **SECTION 2205.** 77.51 (6m) of the statutes is renumbered 77.51 (5m).

24           **SECTION 2206.** 77.51 (7) of the statutes is repealed and recreated to read:

1           77.51 (7) (a) "Lease or rental" means any transfer of possession or control of  
2 tangible personal property for a fixed or indeterminate term and for consideration  
3 and includes:

4           1. A transfer that includes future options to purchase or extend.

5           2. Agreements related to the transfer of possession or control of motor vehicles  
6 or trailers, if the amount of any consideration may be increased or decreased by  
7 reference to the amount realized on the sale or other disposition of such motor  
8 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

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

10           1. A transfer of possession or control of tangible personal property under a  
11 security agreement or deferred payment plan, if such agreement or plan requires  
12 transferring title to the tangible personal property after making all required  
13 payments.

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

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

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



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

5           **SECTION 2207.** 77.51 (7g) of the statutes is created to read:

6           77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible  
7           storage media that is not physically transferred to the purchaser.

8           **SECTION 2208.** 77.51 (7k) of the statutes is created to read:

9           77.51 (7k) "Mobile wireless service" means a telecommunications service for  
10          which the origination or termination points of the service's transmission,  
11          conveyance, or routing are not fixed, regardless of the technology used to transmit,  
12          convey, or route the service. "Mobile wireless service" includes a telecommunications  
13          service provided by a commercial mobile radio service provider.

14          **SECTION 2209.** 77.51 (7m) of the statutes is created to read:

15          77.51 (7m) "Mobility-enhancing equipment" means equipment, including the  
16          repair parts and replacement parts for the equipment, that is primarily and  
17          customarily used to provide or increase the ability of a person to move from one place  
18          to another; that may be used in a home or motor vehicle; and that is generally not  
19          used by a person who has normal mobility. "Mobility-enhancing equipment" does  
20          not include a motor vehicle or any equipment on a motor vehicle that is generally  
21          provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does  
22          not include durable medical equipment.

23          **SECTION 2210.** 77.51 (8m) of the statutes is created to read:

24          77.51 (8m) "Nine hundred service" means an inbound toll telecommunications  
25          service purchased by a subscriber that allows the subscriber's customers to call the

**SECTION 2210**

1 subscriber's prerecorded announcement or live service. "Nine hundred service" does  
2 not include any charge for collection services provided by the seller of the  
3 telecommunications services to the subscriber or for any product or service the  
4 subscriber sells to the subscriber's customers. A "nine hundred service" is  
5 designated with the "900" number or any other number designated by the federal  
6 communications commission.

7 **SECTION 2211.** 77.51 (9) (a) of the statutes is amended to read:

8 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or  
9 property under s. 77.52 (1) (b) or (c), or taxable services where the infrequency, in  
10 relation to the other circumstances, including the sales price and the gross profit,  
11 support the inference that the seller is not pursuing a vocation, occupation or  
12 business or a partial vocation or occupation or part-time business as a vendor of  
13 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services.  
14 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or  
15 (c), or taxable service may be deemed an occasional sale if at the time of such sale the  
16 seller holds or is required to hold a seller's permit, except that this provision does not  
17 apply to an organization required to hold a seller's permit solely for the purpose of  
18 conducting bingo games and except as provided in par. (am).

19 **SECTION 2212.** 77.51 (9) (am) of the statutes is amended to read:

20 77.51 (9) (am) The sale of personal property, other than inventory held for sale,  
21 previously used by a seller to conduct its trade or business at a location after that  
22 person has ceased actively operating in the regular course of business as a seller of  
23 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable  
24 services at that location, even though the seller holds a seller's permit for one or more  
25 other locations.