

1 *-4294/P1.37* SECTION 96. 77.51 (3po) of the statutes is created to read:

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

4 *-4294/P1.38* SECTION 97. 77.51 (3rm) of the statutes is created to read:

5 77.51 (3rm) "Fixed wireless service" means a telecommunications service that
6 provides radio communication between fixed points.

7 *-4294/P1.39* SECTION 98. 77.51 (3t) of the statutes is created to read:

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

12 *-4294/P1.40* SECTION 99. 77.51 (4) of the statutes, as affected by 2007
13 Wisconsin Acts 11 and 20, is repealed.

14 *-4294/P1.41* SECTION 100. 77.51 (5) of the statutes is amended to read:

15 77.51 (5) For purposes of subs. (13) (e) and (f) and ~~(14) (L)~~ (15a) and s. 77.52
16 (2m), "incidental" means depending upon or appertaining to something else as
17 primary; something necessary, appertaining to, or depending upon another which is
18 termed the principal; something incidental to the main purpose of the service.
19 Tangible personal property or items or property under s. 77.52 (1) (b) or (c)
20 transferred by a service provider is incidental to the service if the purchaser's main
21 purpose or objective is to obtain the service rather than the property or items, even
22 though the property or items may be necessary or essential to providing the service.

23 *-4294/P1.42* SECTION 101. 77.51 (5d) of the statutes is created to read:

24 77.51 (5d) "International telecommunications services" means
25 telecommunications services that originate or terminate in the United States,

1 including the District of Columbia and any U.S. territory or possession and originate
2 or terminate outside of the United States, including the District of Columbia and any
3 U.S. territory or possession.

4 *9fj*
-4294/P1.43 SECTION **102**. 77.51 (5n) of the statutes is created to read:

5 77.51 (5n) "Interstate telecommunications services" means
6 telecommunications services that originate in one state or U.S. territory or
7 possession and terminate in a different state or U.S. territory or possession.

8 *9fk*
-4294/P1.44 SECTION **103**. 77.51 (5r) of the statutes is created to read:

9 77.51 (5r) "Intrastate telecommunications services" means
10 telecommunications services that originate in one state or U.S. territory or
11 possession and terminate in the same state or U.S. territory or possession.

12 *9fm*
-4294/P1.45 SECTION **104**. 77.51 (6m) of the statutes is renumbered 77.51
13 (5m).

14 *9fn*
-4294/P1.46 SECTION **105**. 77.51 (7) of the statutes is repealed and recreated
15 to read:

16 77.51 (7) (a) "Lease or rental" means any transfer of possession or control of
17 tangible personal property or items or property under s. 77.52 (1) (b) or (c) for a fixed
18 or indeterminate term and for consideration and includes:

- 19 1. A transfer that includes future options to purchase or extend.
- 20 2. Agreements related to the transfer of possession or control of motor vehicles
21 or trailers, if the amount of any consideration may be increased or decreased by
22 reference to the amount realized on the sale or other disposition of such motor
23 vehicles or trailers, consistent with section 7701 (h) (1) of the Internal Revenue Code.

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

1 designated with the "900" number or any other number designated by the federal
2 communications commission. 9fs

3 *-4294/P1.51* SECTION 110. 77.51 (9) (a) of the statutes is amended to read:

4 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, items or
5 property under s. 77.52 (1) (b) or (c), or taxable services where the infrequency, in
6 relation to the other circumstances, including the sales price and the gross profit,
7 support the inference that the seller is not pursuing a vocation, occupation or
8 business or a partial vocation or occupation or part-time business as a vendor of
9 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services.

10 No sale of any tangible personal property, items or property under s. 77.52 (1) (b) or
11 (c), or taxable service may be deemed an occasional sale if at the time of such sale the
12 seller holds or is required to hold a seller's permit, except that this provision does not
13 apply to an organization required to hold a seller's permit solely for the purpose of
14 conducting bingo games and except as provided in par. (am).

15 *-4294/P1.52* SECTION 111. 77.51 (9) (am) of the statutes is amended to read:

16 77.51 (9) (am) The sale of personal property, other than inventory held for sale,
17 previously used by a seller to conduct its trade or business at a location after that
18 person has ceased actively operating in the regular course of business as a seller of
19 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
20 services at that location, even though the seller holds a seller's permit for one or more
21 other locations.

22 *-4294/P1.53* SECTION 112. 77.51 (9p) of the statutes is created to read:

23 77.51 (9p) "One nonitemized price" does not include a price that is separately
24 identified by product on a binding sales document, or other sales-related document,
25 that is made available to the customer in paper or electronic form, including an

1 1. A transfer of possession or control of tangible personal property or items or
2 property under s. 77.52 (1) (b) or (c) under a security agreement or deferred payment
3 plan, if such agreement or plan requires transferring title to the tangible personal
4 property or items or property under s. 77.52 (1) (b) or (c) after making all required
5 payments.

6 2. A transfer of possession or control of tangible personal property or items or
7 property under s. 77.52 (1) (b) or (c) under any agreement that requires transferring
8 title to the tangible personal property or items or property under s. 77.52 (1) (b) or
9 (c) after making all required payments and after paying an option price that does not
10 exceed the greater of \$100 or 1 percent of the total amount of the required payments.

11 3. Providing tangible personal property or items or property under s. 77.52 (1)
12 (b) or (c) along with an operator, if the operator is necessary for the tangible personal
13 property or items or property under s. 77.52 (1) (b) or (c) to perform in the manner
14 for which it is designed and if the operator does more than maintain, inspect, or set
15 up the tangible personal property or items or property under s. 77.52 (1) (b) or (c).

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

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

24 *-4294/P1.47* **SECTION 106.** 77.51 (7g) of the statutes is created to read:

1 77.51 (7g) "Load-and-leave" means delivery to a purchaser by using a tangible
2 storage media that is not physically transferred to the purchaser.

3 *-4294/P1.48* SECTION 107. ^{9fp} 77.51 (7k) of the statutes is created to read:

4 77.51 (7k) "Mobile wireless service" means a telecommunications service for
5 which the origination or termination points of the service's transmission,
6 conveyance, or routing are not fixed, regardless of the technology used to transmit,
7 convey, or route the service. "Mobile wireless service" includes a telecommunications
8 service provided by a commercial mobile radio service provider.

9 *-4294/P1.49* SECTION 108. ^{9fa} 77.51 (7m) of the statutes is created to read:

10 77.51 (7m) "Mobility-enhancing equipment" means equipment, including the
11 repair parts and replacement parts for the equipment, that is primarily and
12 customarily used to provide or increase the ability of a person to move from one place
13 to another; that may be used in a home or motor vehicle; and that is generally not
14 used by a person who has normal mobility. "Mobility-enhancing equipment" does
15 not include a motor vehicle or any equipment on a motor vehicle that is generally
16 provided by a motor vehicle manufacturer. "Mobility-enhancing equipment" does
17 not include durable medical equipment.

18 *-4294/P1.50* SECTION 109. ^{9fr} 77.51 (8m) of the statutes is created to read:

19 77.51 (8m) "Nine hundred service" means an inbound toll telecommunications
20 service purchased by a subscriber that allows the subscriber's customers to call the
21 subscriber's prerecorded announcement or live service. "Nine hundred service" does
22 not include any charge for collection services provided by the seller of the
23 telecommunications services to the subscriber or for any product or service the
24 subscriber sells to the subscriber's customers. A "nine hundred service" is

SECTION 112

1 invoice, a bill of sale, a receipt, a contract, a service agreement, a lease agreement,
2 a periodic notice of rates and services, a rate card, or a price list.

3 ^{9fw}
-4294/P1.54 SECTION **113**. 77.51 (9s) of the statutes is created to read:

4 77.51 (9s) "Paging service" means a telecommunications service that transmits
5 coded radio signals to activate specific pagers and may include messages or sounds.

6 ^{9gb}
-4294/P1.55 SECTION **114**. 77.51 (10) of the statutes is amended to read:

7 77.51 (10) "Person" includes any natural person, firm, partnership, limited
8 liability company, joint venture, joint stock company, association, public or private
9 corporation, the United States, the state, including any unit or division of the state,
10 any county, city, village, town, municipal utility, municipal power district or other
11 governmental unit, cooperative, unincorporated cooperative association, estate,
12 trust, receiver, personal representative, any other fiduciary, any other legal entity,
13 and any representative appointed by order of any court or otherwise acting on behalf
14 of others. "Person" also includes the owner of a single-owner entity that is
15 disregarded as a separate entity under ch. 71.

16 ^{9gc}
-4294/P1.56 SECTION **115**. 77.51 (10d) of the statutes is created to read:

17 77.51 (10d) "Prepaid calling service" means the right to exclusively access
18 telecommunications services, if that right is paid for in advance of providing such
19 services, requires using an access number or authorization code to originate calls,
20 and is sold in predetermined units or dollars that decrease with use in a known
21 amount.

22 ^{9gd}
-4294/P1.57 SECTION **116**. 77.51 (10f) of the statutes is created to read:

23 77.51 (10f) "Prepaid wireless calling service" means a telecommunications
24 service that provides the right to utilize mobile wireless service as well as other
25 nontelecommunications services, including the download of digital products

1 delivered electronically, content, and ancillary services, and that is paid for prior to
2 use and sold in predetermined dollar units whereby the number of units declines
3 with use in a known amount.

4 *9ge*
9ge
-4294/P1.58 SECTION **117**. 77.51 (10m) of the statutes is created to read:

5 77.51 (10m) (a) "Prepared food" means:

6 1. Food and food ingredients sold in a heated state.

7 2. Food and food ingredients heated by the retailer, except as provided in par.

8 (b).

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

14 a. The utensils are available to purchasers and the retailer's sales of prepared
15 food under subs. 1. and 2., soft drinks, and alcoholic beverages at an establishment
16 are more than 75 percent of the retailer's total sales at that establishment, as
17 determined under par. (c).

18 b. For retailers not described under subd. 3. a., the retailer's customary practice
19 is to physically give or hand the utensils to the purchaser, not including plates,
20 glasses, or cups that are necessary for the purchaser to receive the food and food
21 ingredients and that the retailer makes available to the purchaser.

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

24 (b) "Prepared food" does not include:

1 1. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
2 combined by a retailer for sale as a single item, if the retailer's primary classification
3 in the 2002 North American Industry Classification System, published by the federal
4 office of management and budget, is manufacturing under subsector 311, not
5 including bakeries and tortilla manufacturing under industry group number 3118.

6 2. For purposes of par. (a) 2. and 4., 2 or more food ingredients mixed or
7 combined by a retailer for sale as a single item, sold unheated, and sold by volume
8 or weight.

9 3. For purposes of par. (a) 2. and 4., bakery items made by a retailer, including
10 breads, rolls, pastries, buns, biscuits, bagels, croissants, donuts, danish, cakes,
11 tortes, pies, tarts, muffins, bars, cookies, and tortillas.

12 4. For purposes of par. (a) 4., food and food ingredients that are only sliced,
13 repackaged, or pasteurized by a retailer.

14 5. For purposes of par. (a) 4., eggs, fish, meat, and poultry, and foods containing
15 any of them in raw form, that require cooking by the consumer, as recommended by
16 the food and drug administration in chapter 3, part 401.11 of its food code to prevent
17 food-borne illnesses.

18 (c) 1. The percentage specified under par. (a) 3. a. shall be determined using the
19 following:

20 a. A numerator that includes sales of prepared food, as defined in par. (a) 1. and
21 2. and food for which plates, bowls, glasses, or cups are necessary to receive the food,
22 but not including alcoholic beverages.

23 b. A denominator that includes all food and food ingredients, including
24 prepared food, candy, dietary supplements, and soft drinks, but not including
25 alcoholic beverages.

1 2. a. If the percentage determined under subd. 1. is 75 percent or less, utensils
2 are considered to be provided by the retailer if the retailer's customary practice is to
3 physically give or hand the utensils to the purchaser or, in the case of plates, bowls,
4 glasses, or cups that are necessary to receive the food, to make such items available
5 to the purchaser.

6 b. If the percentage determined under subd. 1. is greater than 75 percent,
7 utensils are considered to be provided by the retailer if the utensils are made
8 available to the purchaser.

9 3. For a retailer whose percentage determined under subd. 1. is greater than
10 75 percent, an item sold by the retailer that contains 4 or more servings packaged
11 as 1 item and sold for a single price does not become prepared food simply because
12 the retailer makes utensils available to the purchaser of the item, but does become
13 prepared food if the retailer physically gives or hands utensils to the purchaser of the
14 item. For purposes of this subdivision 3. a., serving sizes are based on the
15 information contained on the label of each item sold, except that, if the item has no
16 label, the serving size is based on the retailer's reasonable determination.

17 4. a. Except as provided in subd. 4. b., if a retailer sells food items that have a
18 utensil placed in a package by a person other than the retailer, the utensils are
19 considered to be provided by the retailer.

20 b. Except as provided in subds. 2. and 3., if a retailer sells food items that have
21 a utensil placed in a package by a person other than the retailer and the person's
22 primary classification in the 2002 North American Industry Classification System,
23 published by the federal office of management and budget, is manufacturing under
24 subsector 311, the utensils are not considered to be provided by the retailer.

1 5. For purposes of par. (a) 3., a retailer shall determine the percentage for the
2 retailer's tax year or business fiscal year, based on the retailer's data from the
3 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's
4 accounting records are available, but not later than 90 days after the day on which
5 the retailer's tax year or business fiscal year begins. For retailer's with more than
6 one establishment in this state, a single determination under subd. 1. that combines
7 the information for all of the retailer's establishments in this state shall be made
8 annually, as provided in this subdivision, and apply to each of the retailer's
9 establishments in this state. A retailer that has no prior tax year or business fiscal
10 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for
11 the retailer's first tax year or business fiscal year and shall adjust the estimate
12 prospectively after the first 3 months of the retailer's operations if the actual
13 percentage is materially different from the estimated percentage.

14 *~~4294/P1.59~~⁹⁸⁸* SECTION 118. 77.51 (10n) of the statutes is created to read:

15 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by
16 any oral, written, electronic, or other means of transmission and by a person who is
17 authorized by the laws of this state to issue such an order, formula, or recipe.

18 *~~4294/P1.60~~⁹⁸⁸* SECTION 119. 77.51 (10r) of the statutes is created to read:

19 77.51 (10r) "Prewritten computer software" means any of the following:

20 (a) Computer software that is not designed and developed by the author or
21 creator of the software according to a specific purchaser's specifications.

22 (b) Computer software upgrades that are not designed and developed by the
23 author or creator of the software according to a specific purchaser's specifications.

1 (c) Computer software that is designed and developed by the author or creator
2 of the software according to a specific purchaser's specifications and that is sold to
3 another purchaser.

4 (d) Any combination of computer software under pars. (a) to (c), including any
5 combination with any portion of such software.

6 (e) Computer software as described under pars. (a) to (d), and any portion of
7 such software, that is modified or enhanced by any degree to a specific purchaser's
8 specifications, except such modification or enhancement that is reasonably and
9 separately indicated on an invoice, or other statement of the price, provided to the
10 purchaser.

11 *9gh*
-4294/P1.61 SECTION 120. 77.51 (10s) of the statutes is created to read:

12 77.51 (10s) "Private communication service" means a telecommunications
13 service that entitles the customer to exclusive or priority use of a communications
14 channel or group of communications channels, regardless of the manner in which the
15 communications channel or group of communications channels is connected, and
16 includes switching capacity, extension lines, stations, and other associated services
17 that are provided in connection with the use of such channel or channels.

18 *9gi*
-4294/P1.62 SECTION 121. 77.51 (11d) of the statutes is created to read:

19 77.51 (11d) "Product" includes tangible personal property, items or property
20 under s. 77.52 (1) (b) and (c), and services.

21 *9gi ← 9gi*
-4294/P1.63 SECTION 122. 77.51 (11m) of the statutes is created to read:

22 77.51 (11m) "Prosthetic device" means a device, including the repair parts and
23 replacement parts for the device, that is placed in or worn on the body to artificially
24 replace a missing portion of the body; to prevent or correct a physical deformity or
25 malfunction; or to support a weak or deformed portion of the body.

SECTION 123

1 ***-4294/P1.64*** SECTION 123. 77.51 (12) (a) of the statutes, as affected by 2007
2 Wisconsin Act 20, is repealed and recreated to read:

3 77.51 (12) (a) Any transfer of title, possession, ownership, enjoyment, or use
4 by: cash or credit transaction, exchange, barter, lease or rental, conditional or
5 otherwise, in any manner or by any means whatever of tangible personal property
6 or items or property under s. 77.52 (1) (b) or (c) for a consideration, including any
7 transaction for which a person's books and records show the transaction created,
8 with regard to the transferee, an obligation to pay a certain amount of money or an
9 increase in accounts payable or, with regard to the transferor, a right to receive a
10 certain amount of money or an increase in accounts receivable;

11 ***-4294/P1.65*** SECTION 124. 77.51 (12) (b) of the statutes is amended to read:

12 77.51 (12) (b) A transaction whereby the possession of property or items or
13 property under s. 77.52 (1) (b) or (c) is transferred but the seller retains the title as
14 security for the payment of the price.

15 ***-4294/P1.66*** SECTION 125. 77.51 (12m) of the statutes is created to read:

16 77.51 (12m) (a) "Purchase price" means the total amount of consideration,
17 including cash, credit, property, and services, for which tangible personal property,
18 items or property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented,
19 valued in money, whether paid in money or otherwise, without any deduction for the
20 following:

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

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

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

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

4 b. If a shipment includes property or items that are subject to tax under this
5 subchapter and property or items that are not subject to tax under this subchapter,
6 the amount of the delivery charge that the seller allocates to the property or items
7 that are subject to tax under this subchapter is based either on the total purchase
8 price of the property or items that are subject to tax under this subchapter as
9 compared to the total purchase price of all the property or items or on the total weight
10 of the property or items that are subject to tax under this subchapter as compared
11 to the total weight of all the property or items, except that if the seller does not make
12 the allocation under this subd. 4. b., the purchaser shall allocate the delivery charge
13 amount, consistent with this subd. 4. b.

14 5. Installation charges.

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

16 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
17 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
18 taken by a purchaser on a sale.

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

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

4 4. Delivery charges for direct mail.

5 5. In all transactions in which an article of tangible personal property, an item
6 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
7 of an article, item, or property of greater value, the amount of the purchase price that
8 represents the amount allowed for the article, item, or property traded, except that
9 this subdivision does not apply to any transaction to which subd. 7. or 8. applies.

10 6. If a person who purchases a motor vehicle presents a statement issued under
11 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
12 statement to the seller within 60 days from the date of receiving a refund under s.
13 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
14 s. 218.0171 (2) (cq), but not to exceed the purchase price from the sale of the motor
15 vehicle. This subdivision applies only to the first motor vehicle purchased by a
16 person after receiving a refund under s. 218.0171 (2) (b) 2. b.

17 7. Thirty-five percent of the purchase price, excluding trade-ins, of a new
18 manufactured home, as defined in s. 101.91 (11). This subdivision does not apply to
19 a lease or rental.

20 8. At the retailer's option; except that after the retailer chooses an option the
21 retailer may not use the other option for other sales without the department's written
22 approval; either 35 percent of the purchase price of a modular home, as defined in
23 s. 101.71 (6), or an amount equal to the purchase price of the home minus the cost
24 of materials that become an ingredient or component part of the home.

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

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

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

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

10 4. One of the following also applies:

11 a. The purchaser presents a coupon, certificate, or other documentation to the
12 seller to claim the price reduction or discount, if the coupon, certificate, or other
13 documentation is authorized, distributed, or granted by the 3rd party with the
14 understanding that the 3rd party will reimburse the seller for the amount of the price
15 reduction or discount.

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

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

21 ***-4294/P1.67* SECTION 126.** 77.51 (12p) of the statutes is created to read:

22 77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal
23 property is made or to whom a service is furnished.

24 ***-4294/P1.68* SECTION 127.** 77.51 (13) (a) of the statutes is amended to read:

1 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
2 is mercantile in nature, of tangible personal property, items or property under s.
3 77.52 (1) (b) or (c), or a service specified under s. 77.52 (2) (a).

4 *-4294/P1.69* SECTION 128. ⁹⁹⁸77.51 (13) (b) of the statutes is amended to read:

5 77.51 (13) (b) Every person engaged in the business of making sales of tangible
6 personal property or items or property under s. 77.52 (1) (b) or (c) for storage, use or
7 consumption or in the business of making sales at auction of tangible personal
8 property or items or property under s. 77.52 (1) (b) or (c) owned by the person or others
9 for storage, use or other consumption.

10 *-4294/P1.70* SECTION 129. ⁹⁹⁹77.51 (13) (c) of the statutes is amended to read:

11 77.51 (13) (c) When the department determines that it is necessary for the
12 efficient administration of this subchapter to regard any salespersons,
13 representatives, peddlers or canvassers as the agents of the dealers, distributors,
14 supervisors or employers under whom they operate or from whom they obtain the
15 tangible personal property or items or property under s. 77.52 (1) (b) or (c) sold by
16 them, irrespective of whether they are making the sales on their own behalf or on
17 behalf of such dealers, distributors, supervisors or employers, the department may
18 so regard them and may regard the dealers, distributors, supervisors or employers
19 as retailers for purposes of this subchapter.

20 *-4294/P1.71* SECTION 130. ⁹⁹⁸77.51 (13) (d) of the statutes is amended to read:

21 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
22 personal property or items or property under s. 77.52 (1) (b) or (c) to a person other
23 than a seller as defined in sub. (17) provided such wholesaler is not expressly exempt
24 from the sales tax on such sale or from collecting the use tax on such sale.

25 *-4294/P1.72* SECTION 131. ⁹⁹⁵77.51 (13) (e) of the statutes is amended to read:

1 77.51 (13) (e) A person selling tangible personal property or items or property
2 under s. 77.52 (1) (b) or (c) to a service provider who transfers the property in
3 conjunction with the selling, performing or furnishing of any service and the
4 property is or items are incidental to the service, unless the service provider is
5 selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20.

6 This subsection does not apply to sub. (2).

7 *~~4294/P1.73~~* SECTION 132. ^{9gt} 77.51 (13) (f) of the statutes is amended to read:

8 77.51 (13) (f) A service provider who transfers tangible personal property or
9 items or property under s. 77.52 (1) (b) or (c) in conjunction with but not incidental
10 to the selling, performing or furnishing of any service and a service provider selling,
11 performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20. This
12 subsection does not apply to sub. (2). ^{9gv}

13 *~~4294/P1.74~~* SECTION 133. ^{9gv} 77.51 (13) (k) of the statutes is amended to read:

14 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals
15 from a lease of tangible personal property or items or property under s. 77.52 (1) (b)
16 or (c) situated in this state.

17 *~~4294/P1.75~~* SECTION 134. ^{9gv} 77.51 (13) (m) of the statutes is amended to read:

18 77.51 (13) (m) A person selling tangible personal property or items or property
19 under s. 77.52 (1) (b) or (c) to a veterinarian to be used or furnished by the
20 veterinarian in the performance of services in some manner related to domestic
21 animals, including pets or poultry. ^{9hf}

22 *~~4294/P1.76~~* SECTION 135. ^{9hf} 77.51 (13) (n) of the statutes is amended to read:

23 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
24 appliances or other items of tangible personal property or items or property under

1 s. 77.52 (1) (b) or (c) to a landlord for use by tenants in leased or rented living
2 quarters.

3 *-4294/P1.77* SECTION 136. 77.51 (13) (o) of the statutes is amended to read:

4 77.51 (13) (o) A person selling medicine drugs for animals to a veterinarian.

5 As used in this paragraph, "animal" includes livestock, pets and poultry.

6 *-4294/P1.78* SECTION 137. 77.51 (13g) (intro.) of the statutes is amended to
7 read:

8 77.51 (13g) (intro.) Except as provided in sub. (13h), "retailer engaged in
9 business in this state", ~~unless otherwise limited by federal statute~~, for purposes of
10 the use tax, means any of the following:

11 *-4294/P1.78d* SECTION 78d. 77.51 (13g) (a) of the statutes is amended to
12 read:

13 77.51 (13g) (a) Any retailer owning any real property in this state or leasing
14 or renting out any tangible personal property, or items or property under s. 77.52 (1)
15 (b) or (c), located in this state or maintaining, occupying or using, permanently or
16 temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever
17 name called, an office, place of distribution, sales or sample room or place, warehouse
18 or storage place or other place of business in this state.

19 *-4294/P1.78e* SECTION 78e. 77.51 (13g) (b) of the statutes is amended to
20 read:

21 77.51 (13g) (b) Any retailer having any representative, agent, salesperson,
22 canvasser or solicitor operating in this state under the authority of the retailer or its
23 subsidiary for the purpose of selling, delivering or the taking of orders for any
24 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
25 services.

1 *-4294/P1.79* SECTION 138. 77.51 (13g) (c) of the statutes is created to read:
2 77.51 (13g) (c) Any retailer selling tangible personal property, items or
3 property under s. 77.52 (1) (b) or (c), or taxable services for storage, use, or other
4 consumption in this state, unless otherwise limited by federal law.

5 *-4294/P1.80* SECTION 139. 77.51 (13r) of the statutes is amended to read:
6 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
7 be deemed the consumer of the tangible personal property, items or property under
8 s. 77.52 (1) (b) or (c), or services purchased.

9 *-4294/P1.81* SECTION 140. 77.51 (13rm) of the statutes is created to read:
10 77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental
11 for any purpose other than resale, sublease, or subrent.

12 *-4294/P1.82* SECTION 141. 77.51 (13rn) of the statutes is created to read:
13 77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto
14 a device and that may be used to alert the customer with regard to a communication.
15 "Ringtones" includes MP3 or musical tones, polyphonic tones, and synthetic music
16 mobile application format tones, but does not include ring-back tones.

17 *-4294/P1.83* SECTION 142. 77.51 (14) (intro.) of the statutes is amended to
18 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 for
23 resale as tangible personal property, items or property under s. 77.52 (1) (b) or (c),
24 or services and includes:

25 *-4294/P1.84* SECTION 143. 77.51 (14) (a) of the statutes is amended to read:

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 *-4294/P1.85* SECTION 144. ^{9hm} 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), or taxable services for a consideration
10 by social clubs and fraternal organizations to their members or others.

11 *-4294/P1.86* SECTION 145. ^{9hn} 77.51 (14) (c) of the statutes is amended to read:

12 77.51 (14) (c) A transaction whereby the possession of tangible personal
13 property is or items or property under s. 77.52 (1) (b) or (c) are transferred but the
14 seller retains the title as security for the payment of the price.

15 *-4294/P1.87* SECTION 146. ^{9hp} 77.51 (14) (d) of the statutes is repealed.

16 *-4294/P1.88* SECTION 147. ^{9hq} 77.51 (14) (g) of the statutes is renumbered 77.51
17 (15a) (b) 4. ^{9hr}

18 *-4294/P1.89* SECTION 148. ^{9hs} 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 *-4294/P1.90* SECTION 149. ^{9ht} 77.51 (14) (i) of the statutes is repealed.

24 *-4294/P1.91* SECTION 150. 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 at
3 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 *~~-4294/P1.92~~* SECTION 151. ^{9hv}77.51 (14) (k) of the statutes is repealed.

8 *~~-4294/P1.93~~* SECTION 152. ^{9hw}77.51 (14) (L) of the statutes is repealed.

9 *~~-4294/P1.94~~* SECTION 153. ^{9ib}77.51 (14g) (a) of the statutes is amended to read:

10 77.51 (14g) (a) The transfer of property or items or property under s. 77.52 (1)
11 (b) or (c) to a corporation upon its organization solely in consideration for the issuance
12 of its stock;

13 *~~-4294/P1.95~~* SECTION 154. ^{9ic}77.51 (14g) (b) of the statutes is amended to read:

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

17 *~~-4294/P1.96~~* SECTION 155. ^{9id}77.51 (14g) (bm) of the statutes is amended to
18 read:

19 77.51 (14g) (bm) The contribution of property or items or property under s.
20 77.52 (1) (b) or (c) to a limited liability company upon its organization solely in
21 consideration for a membership interest;

22 *~~-4294/P1.97~~* SECTION 156. ^{9ie}77.51 (14g) (c) of the statutes is amended to read:

23 77.51 (14g) (c) The transfer of property or items or property under s. 77.52 (1)
24 (b) or (c) to a corporation, solely in consideration for the issuance of its stock,
25 pursuant to a merger or consolidation;

1 *-4294/P1.98* SECTION 157. 77.51 (14g) (cm) of the statutes is amended to
2 read:

3 77.51 (14g) (cm) The transfer of property or items or property under s. 77.52
4 (1) (b) or (c) to a limited liability company, solely in consideration for a membership
5 interest, pursuant to a merger;

6 *-4294/P1.99* SECTION 158. 77.51 (14g) (d) of the statutes is amended to read:

7 77.51 (14g) (d) The distribution of property or items or property under s. 77.52
8 (1) (b) or (c) by a corporation to its stockholders as a dividend or in whole or partial
9 liquidation;

10 *-4294/P1.100* SECTION 159. 77.51 (14g) (e) of the statutes is amended to
11 read:

12 77.51 (14g) (e) The distribution of property or items or property under s. 77.52
13 (1) (b) or (c) by a partnership to its partners in whole or partial liquidation;

14 *-4294/P1.101* SECTION 160. 77.51 (14g) (em) of the statutes is amended to
15 read:

16 77.51 (14g) (em) The distribution of property or items or property under s.
17 77.52 (1) (b) or (c) by a limited liability company to its members in whole or partial
18 liquidation;

19 *-4294/P1.102* SECTION 161. 77.51 (14g) (f) of the statutes is amended to read:

20 77.51 (14g) (f) Repossession of property or items or property under s. 77.52 (1)
21 (b) or (c) by the seller from the purchaser when the only consideration is cancellation
22 of the purchaser's obligation to pay the remaining balance of the purchase price;

23 *-4294/P1.103* SECTION 162. 77.51 (14g) (g) of the statutes is amended to
24 read:

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

4 *-4294/P1.104* SECTION 163. 77.51 (14g) (h) of the statutes is amended to
5 read: 9:1L

6 77.51 (14g) (h) Any transfer of all or substantially all the property or items or
7 property under s. 77.52 (1) (b) or (c) held or used by a person in the course of an
8 activity requiring the holding of a seller's permit, if after the transfer the real or
9 ultimate ownership of the property or items is substantially similar to that which
10 existed before the transfer. For the purposes of this section, stockholders,
11 bondholders, partners, members or other persons holding an interest in a
12 corporation or other entity are regarded as having the real or ultimate ownership of
13 the property or items of the corporation or other entity. In this paragraph,
14 "substantially similar" means 80% or more of ownership.

15 *-4294/P1.105* SECTION 164. 77.51 (14r) of the statutes is repealed. 9im

16 *-4294/P1.106* SECTION 165. 77.51 (15) of the statutes, as affected by 2007
17 Wisconsin Act 11, is repealed. 9io 9in

18 *-4294/P1.107* SECTION 166. 77.51 (15a) of the statutes is created to read:

19 77.51 (15a) (a) "Sales, lease, or rental for resale, sublease, or subrent" includes
20 transfers of tangible personal property or items or property under s. 77.52 (1) (b) or
21 (c) to a service provider that the service provider transfers in conjunction with but
22 not incidental to the selling, performing, or furnishing of any service, and transfers
23 of tangible personal property or items or property under s. 77.52 (1) (b) or (c) to a
24 service provider that the service provider physically transfers in conjunction with

1 the selling, performing, or furnishing services under s. 77.52 (2) (a) 7., 10., 11., or 20.

2 This paragraph does not apply to sub. (2).

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

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

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

15 3. Transfers of tangible personal property or items or property under s. 77.52
16 (1) (b) or (c) to a service provider that the service provider transfers in conjunction
17 with the selling, performing, or furnishing of any service, if the tangible personal
18 property or items or property under s. 77.52 (1) (b) or (c) are incidental to the service,
19 unless the service provider is selling, performing, or furnishing services under s.
20 77.52 (2) (a) 7., 10., 11., or 20.

21 *-4294/P1.108* SECTION 167. 77.51 (15b) of the statutes is created to read:

22 77.51 (15b) (a) "Sales price" means the total amount of consideration, including
23 cash, credit, property, and services, for which tangible personal property, items or
24 property under s. 77.52 (1) (b) or (c), or services are sold, leased, or rented, valued in

1 money, whether received in money or otherwise, without any deduction for the
2 following:

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

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

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

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

11 b. If a shipment includes property or items that are subject to tax under this
12 subchapter and property or items that are not subject to tax under this subchapter,
13 the amount of the delivery charge that the seller allocates to the property or items
14 that are subject to tax under this subchapter is based either on the total sales price
15 of the property or items that are subject to tax under this subchapter as compared
16 to the total sales price of all the property or items or on the total weight of the property
17 or items that are subject to tax under this subchapter as compared to the total weight
18 of all the property or items.

19 5. Installation charges.

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

21 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a
22 3rd party, except as provided in par. (c); that are allowed by a seller; and that are
23 taken by a purchaser on a sale.

24 2. Interest, financing, and carrying charges from credit that is extended on a
25 sale of tangible personal property, items or property under s. 77.52 (1) (b) or (c), or

1 services, if the amount of the interest, financing, or carrying charges is separately
2 stated on the invoice, bill of sale, or similar document that the seller gives to the
3 purchaser.

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

7 4. Delivery charges for direct mail.

8 5. In all transactions in which an article of tangible personal property, an item
9 under s. 77.52 (1) (b), or property under s. 77.52 (1) (c) is traded toward the purchase
10 of an article, item, or property of greater value, the amount of the sales price that
11 represents the amount allowed for the article, item, or property traded, except that
12 this subdivision does not apply to any transaction to which subd. 7. or 8. applies.

13 6. If a person who purchases a motor vehicle presents a statement issued under
14 s. 218.0171 (2) (cq) to the seller at the time of purchase, and the person presents the
15 statement to the seller within 60 days from the date of receiving a refund under s.
16 218.0171 (2) (b) 2. b., the trade-in amount specified in the statement issued under
17 s. 218.0171 (2) (cq), but not to exceed the sales price from the sale of the motor vehicle.
18 This subdivision applies only to the first motor vehicle purchased by a person after
19 receiving a refund under s. 218.0171 (2) (b) 2. b.

20 7. Thirty-five percent of the sales price, excluding trade-ins, of a new
21 manufactured home, as defined in s. 101.91 (11) . This subdivision does not apply
22 to a lease or rental.

23 8. At the retailer's option; except that after the retailer chooses an option the
24 retailer may not use the other option for other sales without the department's written
25 approval; either 35 percent of the sales price of a modular home, as defined in s.

1 101.71 (6), or an amount equal to the sales price of the home minus the cost of
2 materials that become an ingredient or component part of the home.

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

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

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

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

12 4. One of the following also applies:

13 a. The purchaser presents a coupon, certificate, or other documentation to the
14 seller to claim the price reduction or discount, if the coupon, certificate, or other
15 documentation is authorized, distributed, or granted by the 3rd party with the
16 understanding that the 3rd party will reimburse the seller for the amount of the price
17 reduction or discount.

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

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

23 *-4294/P1.109* SECTION 168. 77.51 (17) (intro.) of the statutes, as affected by
24 2007 Wisconsin Act 20, is amended to read:

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

6 *~~4294/P1.110~~* SECTION 169. 77.51 (17m) of the statutes is repealed and
7 recreated to read: L 91r

8 77.51 (17m) "Service address" means any of the following:

9 (a) The location of the telecommunications equipment to which a customer's
10 telecommunications service is charged and from which the telecommunications
11 service originates or terminates, regardless of where the telecommunications service
12 is billed or paid.

13 (b) If the location described under par. (a) is not known by the seller who sells
14 the telecommunications service, the location where the signal of the
15 telecommunications service originates, as identified by the seller's
16 telecommunications system or, if the signal is not transmitted by the seller's
17 telecommunications system, by information that the seller received from the seller's
18 service provider.

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

21 *~~4294/P1.111~~* SECTION 170. 77.51 (17w) of the statutes is created to read:
22 L 91S

23 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent
24 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not
25 include a beverage that contains milk or milk products; soy, rice, or similar milk
substitutes; or more than 50 percent vegetable or fruit juice by volume.

1 *-4294/P1.112* SECTION 171. 77.51 (18) of the statutes is amended to read:

2 77.51 (18) "Storage" includes any keeping or retention in this state of tangible
3 personal property or items or property under s. 77.52 (1) (b) or (c) purchased from a
4 retailer for any purpose except sale in the regular course of business.

5 *-4294/P1.113* SECTION 172. 77.51 (20) of the statutes is amended to read:

6 77.51 (20) "Tangible personal property" means ~~all tangible personal property~~
7 ~~of every kind and description that can be seen, weighed, measured, felt, or touched,~~
8 ~~or that is in any other manner perceptible to the senses,~~ and includes electricity,
9 natural gas, steam and, water, and also leased property affixed to realty if the lessor
10 has the right to remove the property upon breach or termination of the lease
11 agreement, unless the lessor of the property is also the lessor of the realty to which
12 the property is affixed. "Tangible personal property" also includes coins and stamps
13 of the United States sold or traded as collectors' items above their face value and
14 ~~computer programs except custom computer programs~~ prewritten computer
15 software, but does not include items or property under s. 77.52 (1) (b) or (c).

16 *-4294/P1.114* SECTION 173. 77.51 (21) of the statutes is amended to read:

17 77.51 (21) "Taxpayer" means the person who is required to pay, collect, or
18 account for or who is otherwise directly interested in the taxes imposed by this
19 subchapter, including a certified service provider.

20 *-4294/P1.115d* SECTION 115d. 77.51 (21m) of the statutes is amended to
21 read:

22 77.51 (21m) "Telecommunications and Internet access services" means
23 sending messages and information transmitted through the use of local, toll and
24 wide-area telephone service; channel services; telegraph services; teletypewriter;
25 computer exchange services; cellular mobile telecommunications service; specialized

SECTION 115d

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

7 ***-4294/P1.115e*** SECTION 115e. ^{qjc} 77.51 (21m) of the statutes, as affected by
8 2007 Wisconsin Act (this act), is repealed and recreated to read:

9 77.51 (21m) "Internet access services" means sending messages and
10 information transmitted through the use of local, toll and wide-area telephone
11 service; channel services; telegraph services; teletypewriter; computer exchange
12 services; cellular mobile telecommunications service; specialized mobile radio;
13 stationary two-way radio; paging service; or any other form of mobile and portable
14 one-way or two-way communications; or any other transmission of messages or
15 information by electronic or similar means between or among points by wire, cable,
16 fiber optics, laser, microwave, radio, satellite or similar facilities. "Internet access
17 services" does not include telecommunications services to the extent that such
18 services are taxable under s. 77.52 (2) (a) 5. am. ^{qjd}

19 ***-4294/P1.115*** SECTION 174. ^{qjd} 77.51 (21n) of the statutes is created to read:

20 77.51 (21n) "Telecommunications services" means electronically transmitting,
21 conveying, or routing voice, data, audio, video, or other information or signals to a
22 point or between or among points. "Telecommunications services" includes the
23 transmission, conveyance, or routing of such information or signals in which
24 computer processing applications are used to act on the content's form, code, or
25 protocol for transmission, conveyance, or routing purposes, regardless of whether

1 the service is referred to as a voice over Internet protocol service or classified by the
2 federal communications commission as an enhanced or value-added service.
3 "Telecommunications services" does not include any of the following:

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

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

9 (c) Tangible personal property.

10 (d) Advertising, including directory advertising.

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

12 (f) Internet access services.

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

18 (h) Ancillary services.

19 (i) Digital products delivered electronically, including software, music, video,
20 reading materials, or ringtones.

21 ***-4294/P1.116* SECTION 175.** 77.51 (21p) of the statutes is created to read:

22 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,
23 and any other item that contains tobacco.

24 ***-4294/P1.117* SECTION 176.** 77.51 (21q) of the statutes is created to read:

1 77.51 (21q) "Transferred electronically" means accessed or obtained by the
2 purchaser by means other than tangible storage media.

3 *-4294/P1.118* SECTION 177. 77.51 (22) (a) of the statutes is amended to read:

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

11 *-4294/P1.119* SECTION 178. 77.51 (22) (b) of the statutes is amended to read:

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

19 *-4294/P1.120* SECTION 179. 77.51 (22) (bm) of the statutes is created to read:

20 77.51 (22) (bm) In this subsection, "exercise of any right or power over tangible
21 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable services"
22 includes distributing, selecting recipients, determining mailing schedules, or
23 otherwise directing the distribution, dissemination, or disposal of tangible personal
24 property, items or property under s. 77.52 (1) (b) or (c), or taxable services, regardless

1 of whether the purchaser of such property, items, or services owns or physically
2 possesses, in this state, the property, items, or services. 9jj

3 *-4294/P1.121* SECTION 180. 77.51 (24) of the statutes is created to read:

4 77.51 (24) "Value-added non-voice data service" means a service in which
5 computer processing applications are used to act on the form, content, code, or
6 protocol of the data provided by the service and are used primarily for a purpose other
7 than for transmitting, conveying, or routing data. 9jk

8 *-4294/P1.122* SECTION 181. 77.51 (25) of the statutes is created to read:

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

13 *-4294/P1.123* SECTION 182. 77.51 (26) of the statutes is created to read:

14 77.51 (26) "Voice mail service" means an ancillary service that allows a
15 customer to store, send, or receive recorded messages, not including any vertical
16 service that the customer must have to use the voice mail service.

17 *-4294/P1.124* SECTION 183. 77.52 (1) of the statutes is renumbered 77.52 (1)

18 (a) and amended to read: 9jm

19 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible
20 personal property, including accessories, components, attachments, parts, supplies
21 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the
22 ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal
23 property, including accessories, components, attachments, parts, supplies and
24 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

25 *-4294/P1.125* SECTION 184. 77.52 (1) (b) of the statutes is created to read:

9jn
9jn

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

5 *-4294/P1.126* SECTION 185. 77.52 (1) (c) of the statutes is created to read:

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

11 *-4294/P1.127* SECTION 186. 77.52 (1b) of the statutes, as created by 2007
12 Wisconsin Act 20, is repealed and recreated to read:

13 77.52 (1b) All sales, leases, or rentals of tangible personal property or items
14 or property under sub. (1) (b) or (c) at retail in this state are subject to the tax imposed
15 under sub. (1) unless an exemption in this subchapter applies.

16 *-4294/P1.128* SECTION 187. 77.52 (2) (intro.) of the statutes is amended to
17 read:

18 77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing
19 the services described under par. (a) at retail in this state, as determined under s.
20 77.522, to consumers or users, a tax is imposed upon all persons selling, licensing,
21 performing or furnishing the services at the rate of 5% of the gross receipts sales price
22 from the sale, license, performance or furnishing of the services.

23 *-4294/P1.129d* SECTION 129d. 77.52 (2) (a) 5. a. of the statutes is amended
24 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. *qjs*

10 ***-4294/P1.129*** SECTION 188. 77.52 (2) (a) 5. a. of the statutes, as affected by
11 2007 Wisconsin Act ... (this act), is repealed and recreated to read:

12 77.52 (2) (a) 5. a. The sale of Internet access services.

13 ***-4294/P1.130*** SECTION 189. 77.52 (2) (a) 5. am. of the statutes is created to
14 read: *qjt*

15 77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international
16 telecommunications services, except interstate 800 services. *qjv*

17 ***-4294/P1.131*** SECTION 190. 77.52 (2) (a) 5. b. of the statutes is repealed.

18 ***-4294/P1.132*** SECTION 191. 77.52 (2) (a) 5. c. of the statutes is created to
19 read: *qjw*

20 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed
21 telecommunications billing services.

22 ***-4294/P1.133*** SECTION 192. 77.52 (2) (a) 5m. of the statutes is amended to
23 read: *qkb*

24 77.52 (2) (a) 5m. The sale of services that consist of recording
25 telecommunications messages and transmitting them to the purchaser of the service

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1 or at that purchaser's direction, but not including those services if they are merely
2 ~~an that are taxable under subd. 5. or services that are~~ incidental, as defined in s.
3 77.51 (5), ~~element of to~~ another service that is not taxable under this subchapter and
4 ~~sold to that the purchaser of the incidental service and is not taxable under this~~
5 ~~subchapter.~~

6 ^{9kc} *-4294/P1.134* **SECTION 193.** 77.52 (2) (a) 10. of the statutes is amended to
7 read:

8 77.52 (2) (a) 10. Except for services provided by veterinarians and except for
9 installing or applying tangible personal property that, subject to par. (ag), when
10 installed or applied, will constitute an addition or capital improvement of real
11 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,
12 inspection, and maintenance of all items of tangible personal property or items or
13 property under sub. (1) (b) or (c), unless, at the time of that the repair, service,
14 alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance,
15 a sale in this state of the type of property or item repaired, serviced, altered, fitted,
16 cleaned, painted, coated, towed, inspected, or maintained would have been exempt
17 to the customer from sales taxation under this subchapter, other than the exempt
18 sale of a motor vehicle or truck body to a nonresident under s. 77.54 (5) (a) and other
19 than nontaxable sales under s. ~~77.51 (14r) juvenile~~ 77.522 or unless the repair,
20 service, alteration, fitting, cleaning, painting, coating, towing, inspection, or
21 maintenance is provided under a contract that is subject to tax under subd. 13m. The
22 tax imposed under this subsection applies to the repair, service, alteration, fitting,
23 cleaning, painting, coating, towing, inspection, or maintenance of items listed in par.
24 (ag), regardless of whether the installation or application of tangible personal
25 property or items or property under sub. (1) (b) or (c) related to the items is an

1 addition to or a capital improvement of real property, except that the tax imposed
2 under this subsection does not apply to the original installation or the complete
3 replacement of an item listed in par. (ag), if that ~~the~~ installation or replacement is
4 a real property construction activity under s. 77.51 (2).

5 ^{qkd}
***-4294/P1.135m* SECTION 135m.** 77.52 (2) (a) 11. of the statutes, as affected
6 by 2007 Wisconsin Act 20, is amended to read:

7 77.52 (2) (a) 11. The producing, fabricating, processing, printing, or imprinting
8 of tangible personal property or items or property under sub. (1) (b) or (c) for a
9 consideration for consumers who furnish directly or indirectly the materials used in
10 the producing, fabricating, processing, printing, or imprinting. This subdivision
11 does not apply to the printing or imprinting of tangible personal property or items
12 or property under sub. (1) (b) or (c) that results in printed material, catalogs, or
13 envelopes that are exempt under s. 77.54 (25) or (25m).

14 ^{qke}
***-4294/P1.135* SECTION 194.** 77.52 (2) (a) 13m. of the statutes is created to
15 read:

16 77.52 (2) (a) 13m. The sale of contracts, including service contracts,
17 maintenance agreements, and warranties, that provide, in whole or in part, for the
18 future performance of or payment for the repair, service, alteration, fitting, cleaning,
19 painting, coating, towing, inspection, or maintenance of tangible personal property
20 or items or property under sub. (1) (b) or (c), unless the sale, lease, or rental in this
21 state of the property or items to which the contract relates is or was exempt, to the
22 purchaser of the contract, from taxation under this subchapter.

23 ^{qkp}
***-4294/P1.136* SECTION 195.** 77.52 (2m) (a) of the statutes is amended to read:

24 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
25 of the charge for the service may be deemed a sale or rental of tangible personal

1 property or items or property under sub. (1) (b) or (c) if the property or items
2 transferred by the service provider is are incidental to the selling, performing or
3 furnishing of the service, except as provided in par. (b).

4 ***-4294/P1.137*** SECTION 196. 77.52 (2m) (b) of the statutes is amended to read:

5 77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,
6 10., 11. and 20., all property or items or property under sub. (1) (b) or (c) physically
7 transferred, or transferred electronically, to the customer in conjunction with the
8 selling, performing or furnishing of the service is a sale of tangible personal property
9 or items or property under sub. (1) (b) or (c) separate from the selling, performing or
10 furnishing of the service.

11 ***-4294/P1.138*** SECTION 197. 77.52 (2n) of the statutes, as created by 2007
12 Wisconsin Act 20, is repealed and recreated to read:

13 77.52 (2n) The selling, licensing, performing, or furnishing of the services
14 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is
15 subject to the tax imposed under sub. (2) unless an exemption in this subchapter
16 applies.

17 ***-4294/P1.139*** SECTION 198. 77.52 (3m) of the statutes is repealed.

18 ***-4294/P1.140*** SECTION 199. 77.52 (3n) of the statutes is repealed.

19 ***-4294/P1.141*** SECTION 200. 77.52 (4) of the statutes is amended to read:

20 77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the
21 public or to any customer, directly or indirectly, that the tax or any part thereof will
22 be assumed or absorbed by the retailer or that it will not be added to the selling price
23 of the property or items or property under sub. (1) (b) or (c) sold or that if added it,
24 or any part thereof, will be refunded. Any person who violates this subsection is
25 guilty of a misdemeanor.

1 *-4294/P1.142* SECTION 201. 77.52 (6) of the statutes is repealed.

2 *-4294/P1.143* SECTION 202. 77.52 (7) of the statutes is amended to read:

3 77.52 (7) Every person desiring to operate as a seller within this state who
4 holds a valid certificate under s. 73.03 (50) shall file with the department an
5 application for a permit for each place of operations. Every application for a permit
6 shall be made upon a form prescribed by the department and shall set forth the name
7 under which the applicant intends to operate, the location of the applicant's place of
8 operations, and the other information that the department requires. The Except as
9 provided in sub. (7b), the application shall be signed by the owner if a sole proprietor;
10 in the case of sellers other than sole proprietors, the application shall be signed by
11 the person authorized to act on behalf of such sellers. A nonprofit organization that
12 has ~~gross receipts~~ a sales price taxable under s. 77.54 (7m) shall obtain a seller's
13 permit and pay taxes under this subchapter on all taxable ~~gross receipts~~ sales prices
14 received after it is required to obtain that permit. If that organization becomes
15 eligible later for the exemption under s. 77.54 (7m) except for its possession of a
16 seller's permit, it may surrender that permit.

17 *-4294/P1.144* SECTION 203. 77.52 (7b) of the statutes is created to read:

18 77.52 (7b) Any person who may register under sub. (7) may designate an agent,
19 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the
20 manner prescribed by the department.

21 *-4294/P1.145* SECTION 204. 77.52 (12) of the statutes is amended to read:

22 77.52 (12) A person who operates as a seller in this state without a permit or
23 after a permit has been suspended or revoked or has expired, unless the person has
24 a temporary permit under sub. (11), and each officer of any corporation, partnership
25 member, limited liability company member, or other person authorized to act on

1 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held
2 only by persons actively operating as sellers of tangible personal property, items or
3 property under sub. (1) (b) or (c), or taxable services. Any person not so operating
4 shall forthwith surrender that person's permit to the department for cancellation.
5 The department may revoke the permit of a person found not to be actively operating
6 as a seller of tangible personal property, items or property under sub. (1) (b) or (c),
7 or taxable services.

8 ^{9kφ} *-4294/P1.146* SECTION 205. 77.52 (13) of the statutes is amended to read:

9 77.52 (13) For the purpose of the proper administration of this section and to
10 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
11 the tax until the contrary is established. The burden of proving that a sale of tangible
12 personal property, items or property under sub. (1) (b) or (c), or services is not a
13 taxable sale at retail is upon the person who makes the sale unless that person takes
14 from the purchaser ~~a~~ an electronic or a paper certificate, in a manner prescribed by
15 the department, to the effect that the property, item, or service is purchased for resale
16 or is otherwise exempt, except that no certificate is required for sales of cattle, sheep,
17 goats, and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and
18 no certificate is required for sales of commodities, as defined in 7 USC 2, that are
19 consigned for sale in a warehouse in or from which the commodity is deliverable on
20 a contract for future delivery subject to the rules of a commodity market regulated
21 by the U.S. commodity futures trading commission if upon the sale the commodity
22 is not removed from the warehouse the sale of tangible personal property, items or
23 property under sub. (1) (b) or (c), and services that are exempt under s. 77.54 (7), (7m),
24 (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42),
25 (44), (45), (46), (51), and (52), except as provided in s. 77.54 (30) (e) and (f).

1 *~~4294/P1.147~~* SECTION ^{9K9}206. 77.52 (14) (a) (intro.) and 1. and (b) of the
2 statutes are consolidated, renumbered 77.52 (14) (a) and amended to read:

3 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller ~~from the~~
4 ~~burden of proof of the tax otherwise applicable~~ only if ~~any of the following is true:~~

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

1 *-4294/P1.148* SECTION 207. 77.52 (14) (a) 2. of the statutes is repealed.

2 *-4294/P1.149* SECTION 208. 77.52 (14) (am) of the statutes is created to read:

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

9 *-4294/P1.150* SECTION 209. 77.52 (15) of the statutes is amended to read:

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

22 *-4294/P1.151* SECTION 210. 77.52 (16) of the statutes is amended to read:

23 77.52 (16) Any person who gives a resale certificate for property, items or
24 property under sub. (1) (b) or (c), or services which that person knows at the time of
25 purchase is not to be resold by that person in the regular course of that person's

1 operations as a seller for the purpose of evading payment to the seller of the amount
2 of the tax applicable to the transaction is guilty of a misdemeanor. Any person
3 certifying to the seller that the sale of property, items or property under sub. (1) (b)
4 or (c), or taxable service is exempt, knowing at the time of purchase that it is not
5 exempt, for the purpose of evading payment to the seller of the amount of the tax
6 applicable to the transaction, is guilty of a misdemeanor.

7 ***-4294/P1.152d* SECTION 152d.** 77.52 (17m) (b) 6. of the statutes is amended
8 to read:

9 77.52 (17m) (b) 6. The applicant purchases enough tangible personal property
10 or items or property under sub. (1) (b) or (c) under circumstances that make it
11 difficult to determine whether the property or items will be subject to a tax under this
12 subchapter.

13 ***-4294/P1.152* SECTION 211.** 77.52 (19) of the statutes is amended to read:

14 77.52 (19) The department shall by rule provide for the efficient collection of
15 the taxes imposed by this subchapter on sales of property, items or property under
16 sub. (1) (b) or (c), or services by persons not regularly engaged in selling at retail in
17 this state or not having a permanent place of business, but who are temporarily
18 engaged in selling from trucks, portable roadside stands, concessions at fairs and
19 carnivals, and the like. The department may authorize such persons to sell property
20 or items or property under sub. (1) (b) or (c) or sell, perform, or furnish services on
21 a permit or nonpermit basis as the department by rule prescribes and failure of any
22 person to comply with such rules constitutes a misdemeanor.

23 ***-4294/P1.153* SECTION 212.** 77.52 (20) of the statutes is created to read:

24 77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled
25 transaction is subject to the tax imposed under this subchapter.

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

9 ^{96d}
-4294/P1.154 SECTION 213. 77.52 (21) of the statutes is created to read:

10 77.52 (21) A person who provides a product that is not a distinct and
11 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)
12 (b), is the consumer of that product and shall pay the tax imposed under this
13 subchapter on the purchase price of that product.

14 ^{96e}
-4294/P1.155 SECTION 214. 77.52 (22) of the statutes is created to read:

15 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service
16 provider is the consumer of the tangible personal property or items or property under
17 sub. (1) (b) or (c) and shall pay the tax imposed under this subchapter on the purchase
18 price of the property or items.

19 ^{96f}
-4294/P1.156 SECTION 215. 77.52 (23) of the statutes is created to read:

20 77.52 (23) With regard to transactions described in s. 77.51 (1f) (c), the service
21 provider is the consumer of the service that is essential to the use or receipt of the
22 other service and shall pay the tax imposed under this subchapter on the purchase
23 price of the service that is essential to the use or receipt of the other service.

24 ^{96g}
-4294/P1.157 SECTION 216. 77.522 of the statutes is created to read:

25 77.522 Sourcing. (1) GENERAL. (a) In this section:

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

3 2. "Receive" means taking possession of tangible personal property or items or
4 property under s. 77.52 (1) (b) or (c); making first use of services; or taking possession
5 or making first use of digital goods, whichever comes first. "Receive" does not include
6 a shipping company taking possession of tangible personal property or items or
7 property under s. 77.52 (1) (b) or (c) on a purchaser's behalf.

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

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

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

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

19 d. Containers that are designed for use on the vehicles described in subd. 3. a.
20 to c. and component parts attached to or secured on such vehicles.

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

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

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

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

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

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

15 a. If the item sold is tangible personal property or items or property under s.
16 77.52 (1) (b) or (c), the sale occurs at the location from which the tangible personal
17 property or items or property under s. 77.52 (1) (b) or (c) is shipped.

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

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

23 (c) The sale of direct mail occurs at the location from which the direct mail is
24 shipped, if the purchaser does not provide to the seller a direct pay permit, a direct
25 mail form, or other information that indicates the appropriate taxing jurisdiction to

1 which the direct mail is delivered to the ultimate recipients. If the purchaser
2 provides a direct mail form or direct pay permit to the seller, the purchaser shall pay
3 or remit, as appropriate, to the department the tax imposed under s. 77.53 on all
4 purchases for which the tax is due and the seller is relieved from liability for
5 collecting such tax. A direct mail form provided to a seller under this paragraph shall
6 remain effective for all sales by the seller who received the form to the purchaser who
7 provided the form, unless the purchaser revokes the form in writing and provides
8 such revocation to the seller.

9 (2) LEASE OR RENTAL. (a) Except as provided in pars. (b) and (c), with regard
10 to the first or only payment on the lease or rental, the lease or rental of tangible
11 personal property or items or property under s. 77.52 (1) (b) or (c) occurs at the
12 location determined under sub. (1) (b). If the property or item is moved from the place
13 where the property or item was initially delivered, the subsequent periodic payments
14 on the lease or rental occur at the property's or item's primary location as indicated
15 by an address for the property or item that is provided by the lessee and that is
16 available to the lessor in records that the lessor maintains in the ordinary course of
17 the lessor's business, if the use of such an address does not constitute bad faith. The
18 location of a lease or rental as determined under this paragraph shall not be altered
19 by any intermittent use of the property or item at different locations.

20 (b) The lease or rental of motor vehicles, trailers, semitrailers, and aircraft,
21 that are not transportation equipment, occurs at the primary location of such motor
22 vehicles, trailers, semitrailers, or aircraft as indicated by an address for the property
23 that is provided by the lessee and that is available to the lessor in records that the
24 lessor maintains in the ordinary course of the lessor's business, if the use of such an
25 address does not constitute bad faith, except that a lease or rental under this

1 paragraph that requires only one payment occurs at the location determined under
2 sub. (1) (b). The location of a lease or rental as determined under this paragraph shall
3 not be altered by any intermittent use of the property at different locations.

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

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

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

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

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

15 3. "Communications channel" means a physical or virtual path of
16 communications over which signals are transmitted between or among customer
17 channel termination points.

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

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

3 6. "End user" means the person who uses a telecommunications service. In the
4 case of an entity, "end user" means the individual who uses the telecommunications
5 service on the entity's behalf.

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

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

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

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

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

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

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

1 (b) Except as provided in pars. (d) to (j), the sale of a telecommunications service
2 that is sold on a call-by-call basis occurs in the taxing jurisdiction for sales and use
3 tax purposes where the call originates and terminates, in the case of a call that
4 originates and terminates in the same such jurisdiction, or the taxing jurisdiction for
5 sales and use tax purposes where the call originates or terminates and where the
6 service address is located.

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

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

13 (e) The sale of a postpaid calling service occurs at the location where the signal
14 of the telecommunications service originates, as first identified by the seller's
15 telecommunications system or, if the signal is not transmitted by the seller's
16 telecommunications system, by information that the seller received from the seller's
17 service provider.

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

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

4 2. The sale of a private communication service in which all customer channel
5 termination points are located entirely in one taxing jurisdiction for sales and use
6 tax purposes occurs in the taxing jurisdiction in which the customer channel
7 termination points are located.

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

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

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

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

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

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

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

8 *-4294/P1.158* SECTION 217. 77.523 (title) of the statutes is repealed.

9 *-4294/P1.159* SECTION 218. 77.523 of the statutes is renumbered 77.59 (9p)

10 (a) and amended to read:

11 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116
12 to 126, as amended by P.L. 106-252, and if the customer believes that the amount
13 of the tax assessed for the service under this subchapter or the place of primary use
14 or taxing jurisdiction assigned to the service is erroneous, the customer may request
15 that the service provider correct the alleged error by sending a written notice to the
16 service provider. The notice shall include a description of the alleged error, the street
17 address for the customer's place of primary use of the service, the account name and
18 number of the service for which the customer seeks a correction, and any other
19 information that the service provider reasonably requires to process the request.
20 Within 60 days from the date that a service provider receives a request under this
21 ~~section paragraph~~, the service provider shall review its records to determine the
22 customer's taxing jurisdiction. If the review indicates that there is no error as
23 alleged, the service provider shall explain the findings of the review in writing to the
24 customer. If the review indicates that there is an error as alleged, the service
25 provider shall correct the error and shall refund or credit the amount of any tax

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

8 ***-4294/P1.160* SECTION 219.** 77.524 (1) (a) of the statutes is renumbered
9 77.524 (1) (am). 9Lk 9Lj

10 ***-4294/P1.161* SECTION 220.** 77.524 (1) (ag) of the statutes is created to read:
11 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the
12 seller before the states that are signatories to the agreement, as defined in s. 77.65
13 (2) (a).

14 ***-4294/P1.162* SECTION 221.** 77.524 (1) (b) of the statutes is renumbered
15 77.51 (1g) and amended to read:

16 77.51 (1g) "Certified service provider" means an agent that is certified jointly
17 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and
18 that performs all of a seller's sales tax and use tax functions related to the seller's
19 retail sales, except that a certified service provider is not responsible for a retailer's
20 obligation to remit tax on the retailer's own purchases. 9Lm

21 ***-4294/P1.163* SECTION 222.** 77.525 of the statutes is amended to read:

22 **77.525 Reduction to prevent double taxation.** Any person who is subject
23 to the tax under s. 77.52 (2) (a) 5. -a. on telecommunications services that terminate
24 in this state and who has paid a similar tax on the same services to another state may
25 reduce the amount of the tax remitted to this state by an amount equal to the similar

1 tax properly paid to another state on those services or by the amount due this state
2 on those services, whichever is less. That person shall refund proportionally to the
3 persons to whom the tax under s. 77.52 (2) (a) 5. ~~a-~~ was passed on an amount equal
4 to the amounts not remitted.

5 ***-4294/P1.164* SECTION 223.** ⁹⁶⁰ 77.53 (1) of the statutes is amended to read:

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

16 ***-4294/P1.165* SECTION 224.** ⁹⁶⁰ 77.53 (1b) of the statutes, as created by 2007
17 Wisconsin Act 20, is repealed and recreated to read:

18 77.53 (1b) The storage, use, or other consumption in this state of tangible
19 personal property or items or property under s. 77.52 (1) (b) or (c), and the use or other
20 consumption in this state of a taxable service, purchased from any retailer is subject
21 to the tax imposed in this section unless an exemption in this subchapter applies.

22 ***-4294/P1.166* SECTION 225.** ⁹⁶⁹ 77.53 (2) of the statutes is amended to read:

23 77.53 (2) Every person storing, using, or otherwise consuming in this state
24 tangible personal property, items or property specified under s. 77.52 (1) (b) or (c), or
25 taxable services purchased from a retailer is liable for the tax imposed by this section.

1 The person's liability is not extinguished until the tax has been paid to this state, but
2 a receipt with the tax separately stated from a retailer engaged in business in this
3 state or from a retailer who is authorized by the department, under such rules as it
4 prescribes, to collect the tax and who is regarded as a retailer engaged in business
5 in this state for purposes of the tax imposed by this section given to the purchaser
6 under sub. (3) relieves the purchaser from further liability for the tax to which the
7 receipt refers.

8 ^{9Ln} *-4294/P1.167* SECTION 226. 77.53 (3) of the statutes is amended to read:

9 77.53 (3) Every retailer engaged in business in this state and making sales of
10 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
11 services ~~for delivery into this state or with knowledge directly or indirectly that the~~
12 ~~property or service is intended for storage, use or other consumption in that are~~
13 sourced to this state under s. 77.522, shall, at the time of making the sales ~~or, if the~~
14 ~~storage, use or other consumption of the tangible personal property or taxable service~~
15 ~~is not then taxable under this section, at the time the storage, use or other~~
16 ~~consumption becomes taxable~~, collect the tax from the purchaser and give to the
17 purchaser a receipt in the manner and form prescribed by the department.

18 *-4294/P1.168* SECTION 227. 77.53 (4) of the statutes is repealed.

19 *-4294/P1.169* SECTION 228. 77.53 (9) of the statutes is amended to read:

20 77.53 (9) Every retailer selling ^{9Ln} tangible personal property, items or property
21 under s. 77.52 (1) (b) or (c), or taxable services for storage, use or other consumption
22 in this state shall register with the department and obtain a certificate under s. 73.03
23 (50) and give the name and address of all agents operating in this state, the location
24 of all distribution or sales houses or offices or other places of business in this state,
25 the standard industrial code classification of each place of business in this state and

1 the other information that the department requires. Any person who may register
2 under this subsection may designate an agent, as defined in s. 77.524 (1) (ag), to
3 register with the department under this subsection, in the manner prescribed by the
4 department.

5 *9LV*
~~4294~~/P1.170 SECTION 229. 77.53 (9m) of the statutes is renumbered 77.53
6 (9m) (a) and amended to read:

7 77.53 (9m) (a) Any person who is not otherwise required to collect any tax
8 imposed by this subchapter and who makes sales to persons within this state of
9 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
10 services the use of which is subject to tax under this subchapter may register with
11 the department under the terms and conditions that the department imposes and
12 shall obtain a valid certificate under s. 73.03 (50) and thereby be authorized and
13 required to collect, report, and remit to the department the use tax imposed by this
14 subchapter.

15 *9LW*
~~4294~~/P1.171 SECTION 230. 77.53 (9m) (b) of the statutes is created to read:

16 77.53 (9m) (b) Any person who may register under par. (a) may designate an
17 agent, as defined in s. 77.524 (1) (ag), to register with the department under par. (a),
18 in the manner prescribed by the department.

19 *9mb*
~~4294~~/P1.172 SECTION 231. 77.53 (9m) (c) of the statutes is created to read:

20 77.53 (9m) (c) The registration under par. (a) by a person who is not otherwise
21 required to collect any tax imposed by this subchapter shall not be used as a factor
22 in determining whether the seller has nexus with this state for any tax at any time.

23 *9mc*
~~4294~~/P1.173 SECTION 232. 77.53 (10) of the statutes is amended to read:

24 77.53 (10) For the purpose of the proper administration of this section and to
25 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that

1 tangible personal property, items or property under s. 77.52 (1) (b) or (c), or taxable
2 services sold by any person for delivery in this state is sold for storage, use, or other
3 consumption in this state until the contrary is established. The burden of proving
4 the contrary is upon the person who makes the sale unless that person takes from
5 the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed by
6 department, to the effect that the property, items or property under s. 77.52 (1) (b)
7 or (c), or taxable service is purchased for resale, or otherwise exempt from the tax,
8 except that no certificate is required for sales of cattle, sheep, goats, and pigs that are
9 sold at an animal market, as defined in s. 95.68 (1) (ag), and no certificate is required
10 for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a
11 warehouse in or from which the commodity is deliverable on a contract for future
12 delivery subject to the rules of a commodity market regulated by the U.S. commodity
13 futures trading commission if upon the sale the commodity is not removed from the
14 warehouse the sale of tangible personal property, items or property under s. 77.52
15 (1) (b) or (c), and services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14),
16 (15), (17), (20n), (21), (22b), (30), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51),
17 and (52), except as provided in s. 77.54 (30) (e) and (f).

18 ***-4294/P1.174*** SECTION 233. 77.53 (11) of the statutes is renumbered 77.53
19 (11) (a) and amended to read: *lmd*

20 77.53 (11) (a) The certificate referred to in under sub. (10) relieves the person
21 selling the property, items or property under s. 77.52 (1) (b) or (c), or service from the
22 burden of proof of the tax otherwise applicable only if taken in good faith the seller
23 obtains a fully completed exemption certificate, or the information required to prove
24 the exemption, from a person who is engaged as a seller of tangible personal property
25 or taxable services and who holds the permit provided for by s. 77.52 (9) and who, at

1 ~~the time of purchasing the purchaser no later than 90 days after the date of the sale~~
2 ~~of the tangible personal property, items or property under s. 77.52 (1) (b) or (c), or~~
3 ~~taxable service, intends to sell it in the regular course of operations or is unable to~~
4 ~~ascertain at the time of purchase whether the property or service will be sold or will~~
5 ~~be used for some other purpose, or if taken in good faith from a person claiming~~
6 ~~exemption, except as provided in par. (b). The certificate under sub. (10) shall not~~
7 ~~relieve the seller of the tax otherwise applicable if the seller fraudulently fails to~~
8 ~~collect sales tax or solicits the purchaser to claim an unlawful exemption, accepts an~~
9 ~~exemption certificate from a purchaser who claims to be an entity that is not subject~~
10 ~~to the taxes imposed under this subchapter, if the subject of the transaction sought~~
11 ~~to be covered by the exemption certificate is received by the purchaser at a location~~
12 ~~operated by the seller in this state and the exemption certificate clearly and~~
13 ~~affirmatively indicates that the claimed exemption is not available in this state. The~~
14 ~~certificate shall be signed by and bear the name and address of provide information~~
15 ~~that identifies the purchaser and shall indicate the number of the permit issued to~~
16 ~~the purchaser, the general character of tangible personal property or taxable service~~
17 ~~sold by the purchaser and the basis for the claimed exemption and a paper certificate~~
18 ~~shall be signed by the purchaser. The certificate shall be substantially in the form~~
19 ~~that the department prescribes by rule.~~

20 *-4294/P1.175* SECTION 234. 77.53 (11) (b) of the statutes is created to read: *gme*

21 77.53 (11) (b) If the seller has not obtained a fully completed exemption
22 certificate or the information required to prove the exemption, as provided in par. (a),
23 the seller may, no later than 120 days after the department requests that the seller
24 substantiate the exemption, either provide proof of the exemption to the department

1 by other means or obtain, in good faith, a fully completed exemption certificate from
2 the purchaser.

3 ^{9mp}
-4294/P1.176 SECTION **235**. 77.53 (12) of the statutes is amended to read:

4 77.53 (12) If a purchaser who gives a certificate makes any storage or use of
5 the property, items or property under s. 77.52 (1) (b) or (c), or service other than
6 retention, demonstration, or display while holding it for sale in the regular course
7 of operations as a seller, the storage or use is taxable as of the time the property, items
8 or property under s. 77.52 (1) (b) or (c), or service is first so stored or used.

9 ^{9mg}
-4294/P1.177 SECTION **236**. 77.53 (14) of the statutes is amended to read:

10 77.53 (14) It is presumed that tangible personal property, items or property
11 under s. 77.52 (1) (b) or (c), or taxable services shipped or brought to this state by the
12 purchaser were purchased from or serviced by a retailer.

13 ^{9mh ← h}
-4294/P1.178 SECTION **237**. 77.53 (15) of the statutes is amended to read:

14 77.53 (15) It is presumed that tangible personal property, items or property
15 under s. 77.52 (1) (b) or (c), or taxable services delivered outside this state to ~~a~~
16 ~~purchaser known by the retailer to be a resident of this state were purchased from~~
17 ~~a retailer for storage, use, or other consumption in this state and stored, used, or~~
18 ~~otherwise consumed in this state. This presumption may be controverted by a~~
19 ~~written statement, signed by the purchaser or an authorized representative, and~~
20 ~~retained by the seller that the property or service was purchased for use at a~~
21 ~~designated point outside this state. This presumption may also be controverted by~~
22 ~~other evidence satisfactory to the department that the property, item, or service was~~
23 ~~not purchased for storage, use, or other consumption in this state.~~

24 ^{9mi}
-4294/P1.179 SECTION **238**. 77.53 (16) of the statutes is amended to read:

1 77.53 (16) If the purchase, rental or lease of tangible personal property, items
2 or property under s. 77.52 (1) (b) or (c), or service subject to the tax imposed by this
3 section was subject to a sales tax by another state in which the purchase was made,
4 the amount of sales tax paid the other state shall be applied as a credit against and
5 deducted from the tax, to the extent thereof, imposed by this section, except no credit
6 may be applied against and deducted from a sales tax paid on the purchase of direct
7 mail, if the direct mail purchaser did not provide to the seller a direct pay permit, a
8 direct mail form, or other information that indicates the appropriate taxing
9 jurisdiction to which the direct mail is delivered to the ultimate recipients. In this
10 subsection "sales tax" includes a use or excise tax imposed on the use of tangible
11 personal property, items or property under s. 77.52 (1) (b) or (c), or taxable service
12 by the state in which the sale occurred and "state" includes the District of Columbia
13 ~~but does not include~~ and the commonwealth of Puerto Rico ~~or but does not include~~
14 the several territories organized by congress.

15 *~~4294/P1.180~~* SECTION 239^{gmi}. 77.53 (17) of the statutes, as affected by 2007
16 Wisconsin Act 11, is amended to read:

17 77.53 (17) This section does not apply to tangible personal property or items
18 or property under s. 77.52 (1) (b) or (c) purchased outside this state, as determined
19 under s. 77.522, other than motor vehicles, boats, snowmobiles, recreational
20 vehicles, as defined in s. 340.01 (48r), trailers, semitrailers, all-terrain vehicles and
21 airplanes registered or titled or required to be registered or titled in this state, which
22 is brought into this state by a nondomiciliary for the person's own storage, use or
23 other consumption while temporarily within this state when such property or item
24 is not stored, used or otherwise consumed in this state in the conduct of a trade,

1 occupation, business or profession or in the performance of personal services for
2 wages or fees.

3 ***-4294/P1.181* SECTION 240.** 77.53 (17m) of the statutes is amended to read:

4 77.53 (17m) This section does not apply to a boat purchased in a state
5 contiguous to this state, as determined under s. 77.522, by a person domiciled in that
6 state if the boat is berthed in this state's boundary waters adjacent to the state of the
7 domicile of the purchaser and if the transaction was an exempt occasional sale under
8 the laws of the state in which the purchase was made.

9 ***-4294/P1.182* SECTION 241.** 77.53 (17r) (a) of the statutes is amended to
10 read:

11 77.53 (17r) (a) It is purchased in another state, as determined under s. 77.522.

12 ***-4294/P1.183* SECTION 242.** 77.53 (18) of the statutes, as affected by 2007
13 Wisconsin Act 11, is amended to read:

14 77.53 (18) This section does not apply to the storage, use or other consumption
15 in this state of household goods or items or property under s. 77.52 (1) (b) or (c) for
16 personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile homes,
17 manufactured homes, as defined in s. 101.91 (2), recreational vehicles, as defined in
18 s. 340.01 (48r), trailers, semitrailers and all-terrain vehicles, for personal use,
19 purchased by a nondomiciliary of this state outside this state, as determined under
20 s. 77.522, 90 days or more before bringing the goods, items, or property into this state
21 in connection with a change of domicile to this state.

22 ***-4294/P1.184* SECTION 243.** 77.54 (1) of the statutes is amended to read:

23 77.54 (1) The ~~gross receipts~~ sales price from the sale of and the storage, use or
24 other consumption in this state of tangible personal property, items and property
25 under s. 77.52 (1) (b) and (c) and services the ~~gross receipts~~ sales price from the sale

1 of which, or the storage, use or other consumption of which, this state is prohibited
2 from taxing under the constitution or laws of the United States or under the
3 constitution of this state.

4 *9mo*
-4294/P1.185 SECTION 244. 77.54 (2) of the statutes is amended to read:

5 77.54 (2) The ~~gross receipts~~ sales price from sales of and the storage, use or
6 other consumption of tangible personal property becoming an ingredient or
7 component part of an article of tangible personal property or which is consumed or
8 destroyed or loses its identity in the manufacture of tangible personal property in
9 any form destined for sale, except as provided in sub. (30) (a) 6.

10 *9mp*
-4294/P1.186 SECTION 245. 77.54 (2m) of the statutes is amended to read:

11 77.54 (2m) The ~~gross receipts~~ sales price from the sales of and the storage, use
12 or other consumption of tangible personal property or services that become an
13 ingredient or component of shoppers guides, newspapers or periodicals or that are
14 consumed or lose their identity in the manufacture of shoppers guides, newspapers
15 or periodicals, whether or not the shoppers guides, newspapers or periodicals are
16 transferred without charge to the recipient. In this subsection, "shoppers guides",
17 "newspapers" and "periodicals" have the meanings under sub. (15). The exemption
18 under this subdivision does not apply to advertising supplements that are not
19 newspapers.

20 *9mq*
-4294/P1.187 SECTION 246. 77.54 (3) (a) of the statutes, as affected by 2005
21 Wisconsin Act 366, is amended to read:

22 77.54 (3) (a) The ~~gross receipts~~ sales price from the sales of and the storage, use,
23 or other consumption of tractors and machines, including accessories, attachments,
24 and parts, lubricants, nonpowered equipment, and other tangible personal property
25 that are used exclusively and directly, or are consumed or lose their identities, in the

1 business of farming, including dairy farming, agriculture, horticulture, floriculture,
2 silviculture, and custom farming services, but excluding automobiles, trucks, and
3 other motor vehicles for highway use; excluding personal property that is attached
4 to, fastened to, connected to, or built into real property or that becomes an addition
5 to, component of, or capital improvement of real property; and excluding tangible
6 personal property used or consumed in the erection of buildings or in the alteration,
7 repair or improvement of real property, regardless of any contribution that that
8 personal property makes to the production process in that building or real property
9 and regardless of the extent to which that personal property functions as a machine,
10 except as provided in par. (c). ^{qmr}

11 ***-4294/P1.188* SECTION 247.** 77.54 (3m) (intro.) of the statutes, as affected by
12 2005 Wisconsin Act 366, is amended to read:

13 77.54 (3m) (intro.) The ~~gross receipts~~ sales price from the sale of and the
14 storage, use or other consumption of the following items if they are used exclusively
15 by the purchaser or user in the business of farming; including dairy farming,
16 agriculture, horticulture, floriculture, silviculture, and custom farming services:

17 ***-4294/P1.189* SECTION 248.** ^{qms} 77.54 (4) of the statutes is amended to read:

18 77.54 (4) ~~Gross receipts~~ The sales price from the sale of tangible personal
19 property and items and property under s. 77.52 (1) (b) and (c), and the storage, use
20 or other consumption in this state of tangible personal property and items and
21 property under s. 77.52 (1) (b) and (c) which is the subject of any such sale, by any
22 elementary school or secondary school, exempted as such from payment of income or
23 franchise tax under ch. 71, whether public or private.

24 ***-4294/P1.190* SECTION 249.** 77.54 (5) (intro.) of the statutes is amended to
25 read: ^{qmt}

1 77.54 (5) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
2 use or other consumption of:

3 *-4294/P1.191* SECTION 250. 77.54 (6) (intro.) of the statutes is amended to
4 read:

5 77.54 (6) (intro.) The ~~gross receipts~~ sales price from the sale of and the storage,
6 use or other consumption of:

7 *-4294/P1.192* SECTION 251. 77.54 (7m) of the statutes is amended to read:

8 77.54 (7m) Occasional sales of tangible personal property, items or property
9 under s. 77.52 (1) (b) and (c), or services, including admissions or tickets to an event;
10 by a neighborhood association, church, civic group, garden club, social club or similar
11 nonprofit organization; not involving entertainment for which payment in the
12 aggregate exceeds \$500 for performing or as reimbursement of expenses unless
13 access to the event may be obtained without payment of a direct or indirect admission
14 fee; conducted by the organization if the organization is not engaged in a trade or
15 business and is not required to have a seller's permit. For purposes of this
16 subsection, an organization is engaged in a trade or business and is required to have
17 a seller's permit if its sales of tangible personal property, items and property under
18 s. 77.52 (1) (b) and (c), and services, not including sales of tickets to events, and its
19 events occur on more than 20 days during the year, unless its receipts do not exceed
20 \$25,000 during the year. The exemption under this subsection does not apply to ~~gross~~
21 ~~receipts~~ the sales price from the sale of bingo supplies to players or to the sale, rental
22 or use of regular bingo cards, extra regular cards and special bingo cards.

23 *-4294/P1.193* SECTION 252. 77.54 (8) of the statutes is amended to read:

qmv
qmw
qnb

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

4 *~~-4294/P1.194~~* SECTION 253. ^{9nc} 77.54 (9) of the statutes is amended to read:

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

8 *~~-4294/P1.195~~* SECTION 254. ^{9nd} 77.54 (9a) (intro.) of the statutes is amended to
9 read:

10 77.54 (9a) (intro.) The ~~gross receipts~~ sales price from sales to, and the storage
11 by, use by or other consumption of tangible personal property, items and property
12 under s. 77.52 (1) (b) and (c), and taxable services by:

13 *~~-4294/P1.196~~* SECTION 255. ^{9nd} 77.54 (10) of the statutes is amended to read:

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

18 *~~-4294/P1.197~~* SECTION 256. ^{9nf} 77.54 (11) of the statutes is amended to read:

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

24 *~~-4294/P1.198~~* SECTION 257. ^{9ng} 77.54 (12) of the statutes is amended to read:

SECTION 257

1 77.54 (12) The ~~gross receipts~~ sales price from the sales of and the storage, use
 2 or other consumption in this state of rail freight or passenger cars, locomotives or
 3 other rolling stock used in railroad operations, or accessories, attachments, parts,
 4 lubricants or fuel therefor.

5 *~~4294/P1.199~~* **SECTION 258.** 77.54 (13) of the statutes is amended to read:

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

10 *~~4294/P1.200~~* **SECTION 259.** 77.54 (14) (intro.) of the statutes is amended to
 11 read:

12 77.54 (14) (intro.) The ~~gross receipts~~ sales price from the sales of and the
 13 storage, use, or other consumption in this state of ~~medicines~~ drugs that are any of
 14 the following:

15 *~~4294/P1.201~~* **SECTION 260.** 77.54 (14) (a) of the statutes is amended to read:

16 77.54 (14) (a) Prescribed for the treatment of a human being by a person
 17 authorized to prescribe the ~~medicines~~ drugs, and dispensed on prescription filled by
 18 a registered pharmacist in accordance with law.

19 *~~4294/P1.202~~* **SECTION 261.** 77.54 (14) (b) of the statutes is amended to read:

20 77.54 (14) (b) Furnished by a licensed physician, surgeon, podiatrist, or dentist
 21 to a patient who is a human being for treatment of the patient.

22 *~~4294/P1.203~~* **SECTION 262.** 77.54 (14) (f) (intro.) of the statutes is amended
 23 to read:

24 77.54 (14) (f) (intro.) Furnished without charge to any of the following if the
 25 medicine drug may not be dispensed without a prescription:

1 *-4294/P1.204* SECTION 263. 77.54 (14g) of the statutes is repealed.

2 *-4294/P1.205* SECTION 264. 77.54 (14s) of the statutes is repealed.

3 *-4294/P1.206* SECTION 265. 77.54 (15) of the statutes is amended to read:

4 77.54 (15) The ~~gross receipts~~ sales price from the sale of and the storage, use
5 or other consumption of all newspapers, of periodicals sold by subscription and
6 regularly issued at average intervals not exceeding 3 months, or issued at average
7 intervals not exceeding 6 months by an educational association or corporation sales
8 to which are exempt under sub. (9a) (f), of controlled circulation publications sold to
9 commercial publishers for distribution without charge or mainly without charge or
10 regularly distributed by or on behalf of publishers without charge or mainly without
11 charge to the recipient and of shoppers guides which distribute no less than 48 issues
12 in a 12-month period. In this subsection, "shoppers guide" means a community
13 publication delivered, or attempted to be delivered, to most of the households in its
14 coverage area without a required subscription fee, which advertises a broad range
15 of products and services offered by several types of businesses and individuals. In
16 this subsection, "controlled circulation publication" means a publication that has at
17 least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes
18 not more than 75% of its pages to advertising and that is not conducted as an
19 auxiliary to, and essentially for the advancement of, the main business or calling of
20 the person that owns and controls it.

21 *-4294/P1.207* SECTION 266. 77.54 (16) of the statutes is amended to read:

22 77.54 (16) The ~~gross receipts~~ sales price from the sale of and the storage, use
23 or other consumption of fire trucks and fire fighting equipment, including
24 accessories, attachments, parts and supplies therefor, sold to volunteer fire
25 departments.