



# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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STEPHEN R. MILLER  
CHIEF

August 17 , 2009

## MEMORANDUM

**To:** Representative Townsend

**From:** Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

**Subject:** Technical Memorandum to **2009 AB 350** (LRB-3028/2) by **DOR**

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We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

## MEMORANDUM

August 14, 2009

**TO:** Joseph Kreye  
Legislative Reference Bureau

**FROM:** Paul Ziegler  
Department of Revenue

**SUBJECT:** Technical memorandum on AB 350 – sales and use tax exemption for motorboats

The Department has the following concerns with the bill:

1. The bill does not conform to the Streamlined Sales and Use Tax Agreement (SSUTA) requirements for allowable temporary sales tax exemptions. Specifically, under SSUTA, a member state may only provide a temporary exemption for the items expressly defined in Parts II or Part III (B) of the Library of Definitions in the Streamlined Agreement. None of the items listed in the bill (such as outboard motors, motorboats, and motor boat trailers, etc.) are defined in Parts II or Part III (B) of the Library of Definitions. Conversion of the bill from a temporary to a permanent exemption would be necessary to exempt the desired items under the bill while maintaining compliance with SSUTA.
2. The bill does not conform to Section 322.B. of the SSUTA, which prohibits a member state from providing a temporary exemption that exempts only a portion of the price of an individual item during a sales tax holiday. The bill provides that only the first \$30,000 of the purchase price of an item is exempt, which is not in compliance with sec. 322.B. of the SSUTA.
3. SSUTA also requires member states to provide notice of a temporary exemption period at least 60 days prior to the first day of the calendar quarter in which an exemption period will begin. The bill, however, is effective the day after publication, and consequently, does not allow for the SSUTA required notice.
4. The bill is not in compliance with sec. 322.C. of the SSUTA. Under sec. 322.C, certain procedures are to be used by a member state in administering temporary sales and use tax exemptions. These procedures must explain a member state's sales and use tax treatment of layaway sales, coupons and discounts, splitting of items normally sold together, rain checks, exchanges, delivery charges, order date and back orders, returns, and sales occurring in different time zones. Explicit authority could be provided to the Department of Revenue to address these issues by administrative rule.
5. If Wisconsin implemented a temporary sales tax exemption outside SSUTA standards, Wisconsin could lose its SSUTA membership. Approximately 1,100 retailers will register with Wisconsin no later than October 1, 2009 when Wisconsin becomes a full member state to the SSUTA agreement. If Wisconsin does not conform to the SSUTA and consequently loses its membership, those 1,100 out-of-state retailers would not be obligated to collect sales and use taxes for Wisconsin.

If you have questions regarding this technical memorandum, please contact Jacek Cianciara at (608) 266-8133 or [jcianciara@dor.state.wi.us](mailto:jcianciara@dor.state.wi.us).

cc: Representative Townsend