

1 **77.63 Collection compensation.** The following persons may retain a portion
2 of sales and use taxes collected on retail sales under this subchapter and subch. V
3 in an amount determined by the department and by contracts that the department
4 enters into jointly with other states as a member state of the streamlined sales tax
5 governing board pursuant to the agreement, as defined in s. 77.65 (2) (a):

6 (1) A certified service provider.

7 (2) A seller that uses a certified automated system, as defined in s. 77.524 (1)
8 (am).

9 (3) A seller that sells tangible personal property, or items, property, or works
10 under s. 77.52 (1) (b), (c), or (d), or taxable services in at least 5 states that are
11 signatories to the agreement, as defined in s. 77.65 (2) (a); that has total annual sales
12 revenue of at least \$500,000,000; that has a proprietary system that calculates the
13 amount of tax owed to each taxing jurisdiction in which the seller sells tangible
14 personal property, or items, property, or works under s. 77.52 (1) (b), (c), or (d), or
15 taxable services; and that has entered into a performance agreement with the states
16 that are signatories to the agreement, as defined in s. 77.65 (2) (a). For purposes of
17 this subsection, "seller" includes an affiliated group of sellers using the same
18 proprietary system to calculate the amount of tax owed in each taxing jurisdiction
19 in which the sellers sell tangible personal property, or items, property, or works
20 under s. 77.52 (1) (b), (c), or (d), or taxable services.

goods

21 **SECTION 299.** 77.65 (2) (a) of the statutes is amended to read:

22 77.65 (2) (a) "Agreement" means the streamlined sales and use tax agreement,
23 including amendments to the agreement.

24 **SECTION 300.** 77.65 (2) (c) of the statutes is repealed.

25 **SECTION 301.** 77.65 (2) (e) of the statutes is amended to read:

1 77.65 (2) (e) "Seller" means any person who sells, licenses, leases, or rents
2 tangible personal property, or items, property, or works under s. 77.52 (1) (b), (c), or
3 (d), or services.

4 **SECTION 302.** 77.65 (2) (f) of the statutes is amended to read:

5 77.65 (2) (f) "State" means any state of the United States and, the District of
6 Columbia, and the Commonwealth of Puerto Rico.

7 **SECTION 303.** 77.65 (4) (fm) of the statutes is created to read:

8 77.65 (4) (fm) Provide that a seller who registers with the central electronic
9 registration system under par. (f) may cancel the registration at any time, as
10 provided under uniform procedures adopted by the governing board of the states that
11 are signatories to the agreement, but is required to remit any Wisconsin taxes
12 collected pursuant to the agreement to the department.

13 **SECTION 304.** 77.66 of the statutes is amended to read:

14 **77.66 Certification for collection of sales and use tax.** The secretary of
15 revenue shall determine and periodically certify to the secretary of administration
16 the names of persons, and affiliates, as defined in s. 16.70 (1b), of persons, who make
17 sales of tangible personal property, or items, property, or works under s. 77.52 (1) (b),
18 (c), or (d), and taxable services that are subject to the taxes imposed under this
19 subchapter but who are not registered to collect and remit such taxes to the
20 department or, if registered, do not collect and remit such taxes.

21 **SECTION 305.** 77.67 of the statutes is created to read:

22 **77.67 Amnesty for new registrants.** (1) A seller is not liable for uncollected
23 and unpaid taxes, including penalties and interest, imposed under this subchapter
24 and subch. V on sales made to purchasers in this state before the seller registers
25 under par. (a), if all of the following apply:

goods

1 (a) The seller registers with the department, in a manner that the department
2 prescribes, to collect and remit the taxes imposed under this subchapter and subch.
3 V on sales to purchasers in this state in accordance with the agreement, as defined
4 in s. 77.65 (2) (a).

5 (b) The seller registers under par. (a) no later than 365 days after the effective
6 date of this state's participation in the agreement under s. 77.65 (2) (a), as
7 determined by the department.

8 (c) The seller was not registered to collect and remit the taxes imposed under
9 this subchapter and subch. V during the 365 consecutive days immediately before
10 the effective date of this state's participation in the agreement under s. 77.65 (2) (a),
11 as determined by the department.

12 (d) The seller has not received a notice of the commencement of an audit from
13 the department or, if the seller has received a notice of the commencement of an audit
14 from the department, the audit has been fully resolved, including any related
15 administrative and judicial processes, at the time that the seller registers under par.
16 (a).

17 (e) The seller has not committed or been involved in a fraud or an intentional
18 misrepresentation of a material fact.

19 (f) The seller collects and remits the taxes imposed under this subchapter and
20 subch. V on sales to purchasers in this state for at least 3 consecutive years after the
21 date on which the seller's collection obligation begins.

22 **(2)** Subsection (1) does not apply to taxes imposed under this subchapter and
23 subch. V that are due from the seller for purchases made by the seller.

24 **SECTION 306.** 77.70 of the statutes is amended to read:

1 **77.70 Adoption by county ordinance.** Any county desiring to impose county
2 sales and use taxes under this subchapter may do so by the adoption of an ordinance,
3 stating its purpose and referring to this subchapter. The county sales and use taxes
4 may be imposed only for the purpose of directly reducing the property tax levy and
5 only in their entirety as provided in this subchapter. That ordinance shall be
6 effective on the first day of January, the first day of April, the first day of July or the
7 first day of October. A certified copy of that ordinance shall be delivered to the
8 secretary of revenue at least 120 days prior to its effective date. The repeal of any
9 such ordinance shall be effective on December 31. A certified copy of a repeal
10 ordinance shall be delivered to the secretary of revenue at least ~~60~~ 120 days before
11 the effective date of the repeal.

12 **SECTION 307.** 77.705 of the statutes is amended to read:

13 **77.705 Adoption by resolution; baseball park district.** A local
14 professional baseball park district created under subch. III of ch. 229, by resolution
15 under s. 229.68 (15), may impose a sales tax and a use tax under this subchapter at
16 a rate of no more than 0.1% of the ~~gross receipts or sales price or purchase price.~~
17 Those taxes may be imposed only in their entirety. The resolution shall be effective
18 on the first day of the first month January 1, April 1, July 1, or October 1 that begins
19 at least ~~30~~ 120 days after the adoption of the resolution. Any moneys transferred
20 from the appropriation account under s. 20.566 (1) (gd) to the appropriation account
21 under s. 20.835 (4) (gb) shall be used exclusively to retire the district's debt.

22 **SECTION 308.** 77.706 of the statutes is amended to read:

23 **77.706 Adoption by resolution; football stadium district.** A local
24 professional football stadium district created under subch. IV of ch. 229, by
25 resolution under s. 229.824 (15), may impose a sales tax and a use tax under this

1 subchapter at a rate of 0.5% of the ~~gross receipts or~~ sales price or purchase price.
2 Those taxes may be imposed only in their entirety. The imposition of the taxes under
3 this section shall be effective on the first day of the first month January 1, April 1,
4 July 1, or October 1 that begins at least ~~30~~ 120 days after the certification of the
5 approval of the resolution by the electors in the district's jurisdiction under s. 229.824
6 (15). Any moneys transferred from the appropriation account under s. 20.566 (1) (ge)
7 to the appropriation account under s. 20.835 (4) (ge) shall be used exclusively to retire
8 the district's debt.

9 **SECTION 309.** 77.707 (1) of the statutes is amended to read:

10 77.707 (1) Retailers and the department of revenue may not collect a tax under
11 s. 77.705 for any local professional baseball park district created under subch. III of
12 ch. 229 after the last day of the calendar quarter during that is at least 120 days from
13 the date on which the local professional baseball park district board makes a
14 certification to the department of revenue under s. 229.685 (2), except that the
15 department of revenue may collect from retailers taxes that accrued before the day
16 after the last day of that calendar quarter and fees, interest and penalties that relate
17 to those taxes.

18 **SECTION 310.** 77.707 (2) of the statutes is amended to read:

19 77.707 (2) Retailers and the department of revenue may not collect a tax under
20 s. 77.706 for any local professional football stadium district created under subch. IV
21 of ch. 229 after the last day of the calendar quarter during that is at least 120 days
22 from the date on which the local professional football stadium district board makes
23 all of the certifications to the department of revenue under s. 229.825 (3), except that
24 the department of revenue may collect from retailers taxes that accrued before the

1 day after the last day of that calendar quarter and fees, interest and penalties that
2 relate to those taxes.

3 **SECTION 311.** 77.71 (1) of the statutes is amended to read:

4 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible
5 personal property and the items, property, and works specified under s. 77.52 (1) (b),
6 (c), and (d), and for the privilege of selling, licensing, performing or furnishing
7 services a sales tax is imposed upon retailers at the rate of 0.5% in the case of a county
8 tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the
9 gross receipts sales price from the sale, license, lease or rental of tangible personal
10 property and the items, property, and works specified under s. 77.52 (1) (b), (c), and
11 (d), except property taxed under sub. (4), sold, licensed, leased or rented at retail in
12 the county or special district or from selling, licensing, performing or furnishing
13 services described under s. 77.52 (2) in the county or special district.

14 **SECTION 312.** 77.71 (2) of the statutes is amended to read:

15 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax
16 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales
17 purchase price upon every person storing, using or otherwise consuming in the
18 county or special district tangible personal property, or items, property, or works
19 specified under s. 77.52 (1) (b), (c), or (d), or services if the tangible personal property,
20 item, property, work, or service is subject to the state use tax under s. 77.53, except
21 that a receipt indicating that the tax under sub. (1), (3) or (4) has been paid relieves
22 the buyer of liability for the tax under this subsection and except that if the buyer
23 has paid a similar local tax in another state on a purchase of the same tangible
24 personal property, item, property, work, or services that tax shall be credited against
25 the tax under this subsection and except that for motor vehicles that are used for a

good

good

1 purpose in addition to retention, demonstration or display while held for sale in the
2 regular course of business by a dealer the tax under this subsection is imposed not
3 on the sales purchase price but on the amount under s. 77.53 (1m).

4 **SECTION 313.** 77.71 (3) of the statutes is amended to read:

5 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
6 activities within the county or special district, at the rate of 0.5% in the case of a
7 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
8 of the sales purchase price of tangible personal property or items, property, or works
9 under s. 77.52 (1) (b), (c), or (d) that is are used in constructing, altering, repairing *goods*
10 or improving real property and that ~~becomes~~ became a component part of real
11 property in that county or special district, except that if the contractor has paid the
12 sales tax of a county in the case of a county tax or of a special district in the case of
13 a special district tax in this state on that tangible personal property, item, property,
14 or work, or has paid a similar local sales tax in another state on a purchase of the
15 same tangible personal property, item, property, or work, that tax shall be credited
16 against the tax under this subsection. *good*

17 **SECTION 314.** 77.71 (4) of the statutes is amended to read:

18 77.71 (4) An excise tax is imposed at the rate of 0.5 percent in the case of a
19 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
20 of the sales purchase price upon every person storing, using or otherwise consuming
21 a motor vehicle, boat, ~~snowmobile~~, recreational vehicle, as defined in s. 340.01 (48r),
22 trailer, ~~semitrailer~~, ~~all-terrain vehicle~~ or aircraft, if that property must be registered
23 or titled with this state and if that property is to be customarily kept in a county that
24 has in effect an ordinance under s. 77.70 or in a special district that has in effect a
25 resolution under s. 77.705 or 77.706, except that if the buyer has paid a similar local

1 sales tax in another state on a purchase of the same property that tax shall be
2 credited against the tax under this subsection.

3 SECTION 315. 77.72 (title) of the statutes is repealed.

4 SECTION 316. 77.72 (1) of the statutes is renumbered 77.72 and amended to
5 read:

6 **77.72 General rule for property.** For the purposes of this subchapter, all
7 retail sales of tangible personal property ~~are completed at the time when, and the~~
8 ~~place where, the seller or the seller's agent transfers possession to the buyer or the~~
9 ~~buyer's agent. In this subsection, a common carrier or the U.S. postal service is the~~
10 ~~agent of the seller, regardless of any f.o.b. point and regardless of the method by~~
11 ~~which freight or postage is paid. Rentals and leases of property, except property~~
12 ~~under sub. (2), have a situs at the location of that property, and items, property, and~~
13 works specified under s. 77.52 (1) (b), (c), and (d), and taxable services occur as
14 provided in s. 77.522.

15 SECTION 317. 77.72 (2) and (3) of the statutes are repealed.

16 SECTION 318. 77.73 (2) of the statutes is amended to read:

17 77.73 (2) Counties and special districts do not have jurisdiction to impose the
18 tax under s. 77.71 (2) in regard to items, property, and works under s. 77.52 (1) (b),
19 (c), and (d), and tangible personal property, except snowmobiles, trailers,
20 semitrailers, and all-terrain vehicles, purchased in a sale that is consummated in
21 another county or special district in this state that does not have in effect an
22 ordinance or resolution imposing the taxes under this subchapter and later brought
23 by the buyer into the county or special district that has imposed a tax under s. 77.71
24 (2).

25 SECTION 319. 77.73 (3) of the statutes is created to read:

1 77.73 (3) Counties and special districts have jurisdiction to impose the taxes
2 under this subchapter on retailers who file an application under s. 77.52 (7) or who
3 register under s. 77.53 (9) or (9m), regardless of whether such retailers are engaged
4 in business in the county or special district, as provided in s. 77.51 (13g). A retailer
5 who files an application under s. 77.52 (7) or who registers under s. 77.53 (9) or (9m)
6 shall collect, report, and remit to the department the taxes imposed under this
7 subchapter for all counties and special districts that have an ordinance or resolution
8 imposing the taxes under this subchapter.

9 **SECTION 320.** 77.75 of the statutes is amended to read:

10 **77.75 Reports.** Every person subject to county or special district sales and use
11 taxes shall, for each reporting period, record that person's sales made in the county
12 or special district that has imposed those taxes separately from sales made
13 elsewhere in this state and file a report of the measure of the county or special district
14 sales and use taxes and the tax due thereon separately as prescribed by the
15 department of revenue.

16 **SECTION 321.** 77.77 (1) of the statutes is renumbered 77.77 (1) (a) and amended
17 to read:

18 77.77 (1) (a) The ~~gross receipts~~ sales price from services subject to the tax under
19 s. 77.52 (2) ~~are not or the lease, rental, or license of tangible personal property and~~
20 property, items, and works specified under s. 77.52 (1) (b), (c), and (d), is subject to
21 the taxes under this subchapter, and the incremental amount of tax caused by a rate
22 increase applicable to those services, leases, rentals, or licenses is not due, if those
23 ~~services are billed to the customer and paid for before~~ beginning with the first billing
24 period starting on or after the effective date of the county ordinance, special district
25 resolution, or rate increase, regardless of whether the service is furnished or the

gord

1 property, item, or work is leased, rented, or licensed to the customer before or after
2 that date.

3 SECTION 322. 77.77 (1) (b) of the statutes is created to read:

4 77.77 (1) (b) The sales price from services subject to the tax under s. 77.52 (2)
5 or the lease, rental, or license of tangible personal property and property, items, and
6 works specified under s. 77.52 (1) (b), (c), and (d), is not subject to the taxes under this
7 subchapter, and a decrease in the tax rate imposed under this subchapter on those
8 services first applies, beginning with bills rendered on or after the effective date of
9 the repeal or sunset of a county ordinance or special district resolution imposing the
10 tax or other rate decrease, regardless of whether the service is furnished or the
11 property, item, or work is leased, rented, or licensed to the customer before or after
12 that date.

13 SECTION 323. 77.77 (2) of the statutes is repealed.

14 goods SECTION 324. 77.785 (1) of the statutes is amended to read:

15 77.785 (1) All retailers shall collect and report the taxes under this subchapter
16 on the ~~gross receipts~~ sales price from leases and rentals of property or items,
17 property, and works under s. 77.52 (1) (b), (c), and (d) under s. 77.71 (4).

18 SECTION 325. 77.785 (2) of the statutes is amended to read:

19 77.785 (2) Prior to registration or titling, a retailer of a boat, ~~all-terrain vehicle,~~
20 ~~trailer and semi-trailer dealers and licensed aircraft,~~ motor vehicle, manufactured
21 home, as defined in s. 101.91 (2), or recreational vehicle, as defined in s. 340.01 (48r),
22 ~~and snowmobile dealers~~ shall collect the taxes under this subchapter on sales of
23 items under s. 77.71 (4). The ~~dealer~~ retailer shall remit those taxes to the
24 department of revenue along with payments of the taxes under subch. III.

25 SECTION 326. 77.98 of the statutes is amended to read:

1 **77.98 Imposition.** A local exposition district under subch. II of ch. 229 may
2 impose a tax on the retail sale, except sales for resale, within the district's
3 jurisdiction under s. 229.43 of ~~products that are subject to a tax under s. 77.54 (20)~~
4 ~~(e) 1. to 3. and not~~ candy, as defined in s. 77.51 (1fm), prepared food, as defined in s.
5 77.51 (10m), and soft drinks, as defined in s. 77.51 (17w), unless exempt from the
6 sales tax under s. 77.54 (1), (4), (7) (a), (7m), (9), (9a) ~~or (20) (e) 5., (20n) (b) and (c),~~
7 and (20r).

8 **SECTION 327.** 77.981 of the statutes is amended to read:

9 **77.981 Rate.** The tax under s. 77.98 is imposed on the sale of taxable products
10 at the rate of 0.25% of the ~~gross receipts~~ sales price, except that the district, by a vote
11 of a majority of the authorized members of its board of directors, may impose the tax
12 at the rate of 0.5% of the ~~gross receipts~~ sales price. A majority of the authorized
13 members of the district's board may vote that, if the balance in a special debt service
14 reserve fund of the district is less than the requirement under s. 229.50 (5), the tax
15 rate under this subchapter is 0.5%. The 0.5% rate shall be effective on the next
16 January 1, April 1, July 1 or October 1, and this tax is irrevocable if any bonds issued
17 by the district and secured by the special debt service reserve fund are outstanding.

18 **SECTION 328.** 77.982 (2) of the statutes is repealed and recreated to read:

19 77.982 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
20 (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2),
21 (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under subch.
22 III, apply to the tax under this subchapter. Section 77.73, as it applies to the taxes
23 under subch. V, applies to the tax under this subchapter.

24 **SECTION 329.** 77.99 of the statutes is amended to read:

1 **77.99 Imposition.** A local exposition district under subch. II of ch. 229 may
2 impose a tax at the rate of 3% of the ~~gross receipts~~ sales price on the rental, but not
3 for rental and not for rental as a service or repair replacement vehicle, within the
4 district's jurisdiction under s. 229.43, of Type 1 automobiles, as defined in s. 340.01
5 (4) (a), by establishments primarily engaged in short-term rental of passenger cars
6 without drivers, for a period of 30 days or less, unless the sale is exempt from the sales
7 tax under s. 77.54 (1), (4), (7) (a), (7m), (9) or (9a). If the state makes a payment under
8 s. 229.50 (7) to a district's special debt service reserve fund, a majority of the district's
9 authorized board of directors may vote to increase the tax rate under this subchapter
10 to 4%. A resolution to adopt the taxes imposed under this section, or an increase in
11 the tax rate, shall be effective on the first January 1, April 1, July 1, or October 1
12 following the adoption of the resolution or tax increase.

13 **SECTION 330.** 77.991 (2) of the statutes is repealed and recreated to read:

14 77.991 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3), (4),
15 (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61 (2),
16 (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under subch.
17 III, apply to the tax under this subchapter. Section 77.73, as it applies to the taxes
18 under subch. V, applies to the tax under this subchapter. The renter shall collect the
19 tax under this subchapter from the person to whom the passenger car is rented.

20 **SECTION 331.** 77.994 (1) (intro.) of the statutes is amended to read:

21 77.994 (1) (intro.) Except as provided in sub. (2), a municipality or a county all
22 of which is included in a premier resort area under s. 66.1113 may, by ordinance,
23 impose a tax at a rate of 0.5% of the ~~gross receipts~~ sales price from the sale, license,
24 lease, or rental in the municipality or county of goods or services that are taxable
25 under subch. III made by businesses that are classified in the standard industrial

1 classification manual, 1987 edition, published by the U.S. office of management and
2 budget, under the following industry numbers:

3 **SECTION 332.** 77.9941 (4) of the statutes is amended to read:

4 77.9941 (4) Sections 77.72 (1), ~~(2) (a) and (3) (a)~~, 77.73, 77.74, 77.75, 77.76 (1),
5 (2), and (4), 77.77 (1) ~~and (2)~~, 77.785 (1), and 77.79, as they apply to the taxes under
6 subch. V, apply to the tax under this subchapter.

7 **SECTION 333.** 77.995 (2) of the statutes is amended to read:

8 77.995 (2) There is imposed a fee at the rate of 5 percent of the ~~gross receipts~~
9 sales price on the rental, but not for rental and not for rental as a service or repair
10 replacement vehicle of Type 1 automobiles, as defined in s. 340.01 (4) (a); of
11 recreational vehicles, as defined in s. 340.01 (48r); of motor homes, as defined in s.
12 340.01 (33m); and of camping trailers, as defined in s. 340.01 (6m) by establishments
13 primarily engaged in short-term rental of vehicles without drivers, for a period of 30
14 days or less, unless the sale is exempt from the sales tax under s. 77.54 (1), (4), (7)
15 (a), (7m) or (9a). There is also imposed a fee at the rate of 5 percent of the ~~gross~~
16 receipts sales price on the rental of limousines.

17 **SECTION 334.** 77.9951 (2) of the statutes is repealed and recreated to read:

18 77.9951 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
19 (4), (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61
20 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
21 subch. III, apply to the fee under this subchapter. The renter shall collect the fee
22 under this subchapter from the person to whom the vehicle is rented.

23 **SECTION 335.** 77.996 (6) of the statutes is amended to read:

24 77.996 (6) "Gross receipts" ~~has the meaning given in s. 77.51 (4) (a), (b) 1. and~~
25 5., (e) 1. to 4., and (d) means the sales price, as defined in s. 77.51 (15b), of tangible

1 personal property and taxable services sold by a dry cleaning facility. "Gross
2 receipts" does not include the license fee imposed under s. 77.9961 (1m) that is passed
3 on to customers.

4 **SECTION 336.** 77.9972 (2) of the statutes is repealed and recreated to read:

5 77.9972 (2) Sections 77.51 (12m), (14), (14g), (15a), and (15b), 77.52 (1b), (3),
6 (4), (13), (14), (18), and (19), 77.58 (1) to (5), (6m), and (7), 77.585, 77.59, 77.60, 77.61
7 (2), (3m), (5), (8), (9), and (12) to (15), and 77.62, as they apply to the taxes under
8 subch. III, apply to the fee under this subchapter. Section 77.73, as it applies to the
9 taxes under subch. V, applies to the fee under this subchapter. The renter shall
10 collect the fee under this subchapter from the person to whom the passenger car is
11 rented.

12 **SECTION 337.** 86.195 (3) (b) 3. of the statutes is amended to read:

13 86.195 (3) (b) 3. Fifty percent of the ~~gross receipts~~ sales price, as defined in s.
14 77.51 (15b), of the business are is from meal, food, the sale of food product and
15 beverage sales and food ingredients, as defined in s. 77.51 (3t), that are taxable under
16 s. 77.54 (20) (e) subch. III of ch. 77; and

17 **SECTION 338.** 218.0171 (2) (cq) of the statutes is amended to read:

18 218.0171 (2) (cq) Upon payment of a refund to a consumer under par. (b) 2. b.,
19 the manufacturer shall provide to the consumer a written statement that specifies
20 the trade-in amount previously applied under s. 77.51 (4) (b) 3. ~~or 3m. or (15) (b) 4.~~
21 ~~or 4m. (12m) (b) 5. or 6. or (15b) (b) 5. or 6.~~ toward the sales price of the motor vehicle
22 having the nonconformity and the date on which the manufacturer provided the
23 refund.

24 **SECTION 339.** 229.68 (15) of the statutes is amended to read:

1 229.68 (15) Impose, by the adoption of a resolution, the taxes under subch. V
2 of ch. 77. A district may not levy any taxes that are not expressly authorized under
3 subch. V of ch. 77 and that do not receive the affirmative vote of a supermajority of
4 the district board. If a district adopts a resolution which imposes taxes, it shall
5 deliver a certified copy of the resolution to the secretary of revenue at least ~~30~~ 120
6 days before its effective date.

7 **SECTION 340.** 229.824 (15) of the statutes is amended to read:

8 229.824 (15) Impose, by the adoption of a resolution, the taxes under subch. V
9 of ch. 77, except that the taxes imposed by the resolution may not take effect until
10 the resolution is approved by a majority of the electors in the district's jurisdiction
11 voting on the resolution at a referendum, to be held at the first spring primary or
12 September primary following by at least 45 days the date of adoption of the
13 resolution. Two questions shall appear on the ballot. The first question shall be:
14 "Shall a sales tax and a use tax be imposed at the rate of 0.5% in County for
15 purposes related to football stadium facilities in the Professional Football
16 Stadium District?" The 2nd question shall be: "Shall excess revenues from the 0.5%
17 sales tax and use tax be permitted to be used for property tax relief purposes in
18 County?" Approval of the first question constitutes approval of the resolution of the
19 district board. Approval of the 2nd question is not effective unless the first question
20 is approved. The clerk of the district shall publish the notices required under s. 10.06
21 (4) (c), (f) and (i) for any referendum held under this subsection. Notwithstanding
22 s. 10.06 (4) (c), the type A notice under s. 10.01 (2) (a) relating to the referendum is
23 valid even if given and published late as long as it is given and published prior to the
24 election as early as practicable. A district may not levy any taxes that are not
25 expressly authorized under subch. V of ch. 77. The district may not levy any taxes

1 until the professional football team and the governing body of the municipality in
2 which the football stadium facilities are located agree on how to fund the
3 maintenance of the football stadium facilities. The district may not levy any taxes
4 until the professional football team and the governing body of the municipality in
5 which the football stadium facilities are located agree on how to distribute the
6 proceeds, if any, from the sale of naming rights related to the football stadium
7 facilities. If a district board adopts a resolution that imposes taxes and the resolution
8 is approved by the electors, the district shall deliver a certified copy of the resolution
9 to the secretary of revenue at least ~~30~~ 120 days before its effective date. If a district
10 board adopts a resolution that imposes taxes and the resolution is not approved by
11 the electors, the district is dissolved.

12 **SECTION 9443. Effective dates; Revenue.**

13 (1) MAIN STREET EQUITY ACT. The repeal of sections 46.513, 77.51 (4), 77.51 (14)
14 (d), 77.51 (14) (i), 77.51 (14) (k), 77.51 (14) (L), 77.51 (14r), 77.51 (15), 77.52 (2) (a)
15 5. b., 77.52 (3m), 77.52 (3n), 77.52 (6), 77.52 (14) (a) 2., 77.523 (title), 77.53 (4), 77.53
16 (15), 77.54 (14g), 77.54 (14s), 77.54 (20), 77.54 (20m), 77.54 (22), 77.54 (40), 77.61 (3),
17 77.65 (2) (c), 77.72 (title), 77.72 (2) and (3) and 77.77 (2) of the statutes; the
18 renumbering of sections 77.524 (1) (a) and 77.54 (48) (b) of the statutes; the
19 renumbering and amendment of sections 77.51 (1), 77.51 (21m) (by SECTION 121),
20 77.51 (6m), 77.51 (14) (g), 77.52 (1), 77.523, 77.524 (1) (b), 77.53 (9m), 77.53 (11),
21 77.54 (48) (a), 77.61 (2), 77.72 (1) and 77.77 (1) of the statutes; the consolidation,
22 renumbering, and amendment of section 77.52 (14) (a) (intro.) and 1. and (b) of the
23 statutes; the amendment of sections 66.0615 (1m) (f) 2., 70.111 (23), 71.07 (5e) (b),
24 71.07 (5e) (c) 1., 71.07 (5e) (c) 3., 71.28 (5e) (b), 71.28 (5e) (c) 1., 71.28 (5e) (c) 3., 71.47
25 (5e) (b), 71.47 (5e) (c) 1., 71.47 (5e) (c) 3., 73.03 (50) (d), 76.07 (4g) (b) 8., 77.51 (5),

1 77.51 (9) (a), 77.51 (9) (am), 77.51 (10), 77.51 (12) (b), 77.51 (13) (a), 77.51 (13) (b),
2 77.51 (13) (c), 77.51 (13) (d), 77.51 (13) (e), 77.51 (13) (f), 77.51 (13) (k), 77.51 (13) (m),
3 77.51 (13) (n), 77.51 (13) (o), 77.51 (13g) (intro.), 77.51 (13g) (a), 77.51 (13g) (b), 77.51
4 (13r), 77.51 (14) (intro.), 77.51 (14) (a), 77.51 (14) (b), 77.51 (14) (c), 77.51 (14) (h),
5 77.51 (14) (j), 77.51 (14g) (a), 77.51 (14g) (b), 77.51 (14g) (bm), 77.51 (14g) (c), 77.51
6 (14g) (cm), 77.51 (14g) (d), 77.51 (14g) (e), 77.51 (14g) (em), 77.51 (14g) (f), 77.51 (14g)
7 (g), 77.51 (14g) (h), 77.51 (17) (intro.), 77.51 (18), 77.51 (21), 77.51 (22) (a), 77.51 (22)
8 (b), 77.52 (2) (intro.), 77.52 (2) (a) 5. a. (by SECTION 138), 77.52 (2) (a) 5m., 77.52 (2)
9 (a) 10., 77.52 (2) (a) 11., 77.52 (2m) (a), 77.52 (2m) (b), 77.52 (4), 77.52 (7), 77.52 (12),
10 77.52 (13), 77.52 (15), 77.52 (16), 77.52 (17m) (b) 6., 77.52 (19), 77.525, 77.53 (1), 77.53
11 (2), 77.53 (3), 77.53 (9), 77.53 (10), 77.53 (12), 77.53 (14), 77.53 (16), 77.53 (17), 77.53
12 (17m), 77.53 (17r) (a), 77.53 (18), 77.54 (1), 77.54 (2), 77.54 (2m), 77.54 (3) (a), 77.54
13 (3m) (intro.), 77.54 (4), 77.54 (5) (intro.), 77.54 (6) (intro.), 77.54 (7m), 77.54 (8), 77.54
14 (9), 77.54 (9a) (intro.), 77.54 (10), 77.54 (11), 77.54 (12), 77.54 (13), 77.54 (14) (intro.),
15 77.54 (14) (a), 77.54 (14) (b), 77.54 (14) (f) (intro.), 77.54 (15), 77.54 (16), 77.54 (17),
16 77.54 (18), 77.54 (21), 77.54 (23m), 77.54 (25), 77.54 (25m), 77.54 (26), 77.54 (26m),
17 77.54 (27), 77.54 (28), 77.54 (29), 77.54 (30) (a) (intro.), 77.54 (30) (c), 77.54 (31), 77.54
18 (32), 77.54 (33), 77.54 (35), 77.54 (36), 77.54 (37), 77.54 (38), 77.54 (39), 77.54 (41),
19 77.54 (42), 77.54 (43), 77.54 (44), 77.54 (45), 77.54 (46), 77.54 (46m), 77.54 (47)
20 (intro.), 77.54 (47) (b) 1., 77.54 (47) (b) 2., 77.54 (49), 77.54 (54), 77.54 (56), 77.55 (1)
21 (intro.), 77.55 (2), 77.55 (2m), 77.55 (3), 77.56 (1), 77.57, 77.58 (3) (a), 77.58 (3) (b),
22 77.58 (6), 77.59 (5m), 77.59 (9), 77.61 (1) (b), 77.61 (1) (c), 77.61 (4) (a), 77.61 (4) (c),
23 77.61 (11), 77.65 (2) (a), 77.65 (2) (e), 77.65 (2) (f), 77.66, 77.70, 77.705, 77.706, 77.707
24 (1), 77.707 (2), 77.71 (1), 77.71 (2), 77.71 (3), 77.71 (4), 77.73 (2), 77.75, 77.785 (1),
25 77.785 (2), 77.98, 77.981, 77.99, 77.994 (1) (intro.), 77.9941 (4), 77.995 (2), 77.996 (6),

77.51(1a),

1 86.195 (3) (b) 3., 218.0171 (2) (cq), 229.68 (15) and 229.824 (15) of the statutes; the
 2 repeal and recreation of sections 77.51 (7), 77.51 (12) (a), 77.51 (17m), 77.51 (20),
 3 77.52 (1b), 77.52 (2n), 77.53 (1b), 77.63, 77.982 (2), 77.991 (2), 77.9951 (2), and
 4 77.9972 (2) of the statutes; and the creation of sections 20.566 (1) (ho), 73.03 (28e),
 5 73.03 (50b), 73.03 (61), 77.51 (1b), 77.51 (1ba), 77.51 (1f), 77.51 (1fm), 77.51 (1pd),
 6 77.51 (1r), 77.51 (2k), 77.51 (2m), 77.51 (3c), 77.51 (3n), 77.51 (3p), 77.51 (3pd), 77.51
 7 (3pe), 77.51 (3pf), 77.51 (3pj), 77.51 (3pm), 77.51 (3pn), 77.51 (3po), 77.51 (3rm), 77.51
 8 (3t), 77.51 (5d), 77.51 (5n), 77.51 (5r), 77.51 (7g), 77.51 (7k), 77.51 (7m), 77.51 (8m),
 9 77.51 (9p), 77.51 (9s), 77.51 (10d), 77.51 (10f), 77.51 (10m), 77.51 (10n), 77.51 (10s),
 10 77.51 (11d), 77.51 (11m), 77.51 (12m), 77.51 (12p), 77.51 (13g) (c), 77.51 (13rm), 77.51
 11 (13rn), 77.51 (15a), 77.51 (15b), 77.51 (17w), 77.51 (21n), 77.51 (21p), 77.51 (21q),
 12 77.51 (22) (bm), 77.51 (24), 77.51 (25), 77.51 (26), 77.52 (1) (b), 77.52 (1) (c), 77.52 (1)
 13 (d), 77.52 (2) (a) 5. am., 77.52 (2) (a) 5. c., 77.52 (2) (a) 13m., 77.52 (7b), 77.52 (14) (am),
 14 77.52 (14) (bm), 77.52 (20), 77.52 (21), 77.52 (22), 77.52 (23), 77.522, 77.524 (1) (ag),
 15 77.53 (9m) (b), 77.53 (9m) (c), 77.53 (11) (b), 77.54 (20n), 77.54 (20r), 77.54 (22b), 77.54
 16 (50), 77.54 (51), 77.54 (52), 77.58 (6m), 77.58 (9a), 77.585, 77.59 (2m), 77.59 (9n),
 17 77.59 (9p) (b), 77.59 (9r), 77.60 (13), 77.61 (2) (b), 77.61 (3m), 77.61 (5m), 77.61 (16),
 18 77.61 (17), 77.61 (18), 77.65 (4) (fm), 77.67, 77.73 (3) and 77.77 (1) (b) of the statutes
 19 take effect on October 1, 2009.

20 (2) MAIN STREET EQUITY ACT. The amendment of sections 77.51 (21m) (by
 21 SECTION 120) and 77.52 (2) (a) 5. a. (by SECTION 137) of the statutes takes effect on
 22 September 30 2009.

23 (END)

D-Note

77.51(3pa), 77.51(3pb),
 77.51(3pc),
 77.51(3rn)

5
6
7
11

77.51(17x)

DOA:.....Lillethun, BB0105 - Imposing sales and use taxes on digital goods
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

also
This bill imposes sales and use taxes on specified digital goods and additional digital goods. "Specified digital goods" are digital audio works, digital audiovisual works, and digital books. "Additional digital goods" means video greeting cards sent by electronic mail, finished artwork, periodicals, and video or electronic games. Under the bill, the sale of specified digital goods or additional digital goods that are transferred electronically to the purchaser are exempt from the sales and use taxes, if the sale of the goods in tangible form is exempt from the sales and use taxes.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

2 SECTION 1. 77.51 (1) of the statutes is renumbered 77.51 (1f) and amended to
3 read:

INSERT
A

9

1 77.51 (1f) "Business" includes any activity engaged in by any person or caused
 2 to be engaged in by any person with the object of gain, benefit or advantage, either
 3 direct or indirect, and includes also the furnishing and distributing of tangible
 4 personal property, specified digital goods, additional digital goods, or taxable
 5 services for a consideration by social clubs and fraternal organizations to their
 6 members or others.

7 SECTION 2. 77.51 (1a) of the statutes is created to read:

8 77.51 (1a) "Additional digital goods" means video greeting cards sent by
 9 electronic mail, finished artwork, periodicals, and video or electronic games. For
 10 purposes of this subchapter, the sale of or the storage, use, or other consumption of
 11 a digital code is treated the same as the sale of or the storage, use, or other
 12 consumption of any additional digital goods for which the digital code relates.

13 SECTION 3. 77.51 (3p) of the statutes is created to read:

14 77.51 (3p) ^(3pa) "Digital audio works" means works that result from the fixation of
 15 a series of musical, spoken, or other sounds that are transferred electronically,
 16 including prerecorded or live music, prerecorded or live readings of books or other
 17 written materials, prerecorded or live speeches, ringtones, or other sound recordings
 18 but not including audio greeting cards sent by electronic mail.

19 SECTION 4. 77.51 (3pa) of the statutes is created to read:

20 77.51 (3pa) "Digital audiovisual works" means a series of related images that,
 21 when shown in succession, impart an impression of motion, along with
 22 accompanying sounds, if any, and that are transferred electronically. "Digital
 23 audiovisual works" includes motion pictures, musical videos, news and
 24 entertainment programs, and live events, but does not include video greeting cards
 25 or video or electronic games.

N/BUT 8-6

INSERT 12-11A

e

INSERT 12-11B

1 **SECTION 5.** 77.51 (3pb) of the statutes is created to read:

2 77.51 (3pb) "Digital books" means works that are generally recognized in the
3 ordinary and usual sense as books and are transferred electronically. "Digital books"
4 includes any literary work, other than a digital audio work or digital audiovisual
5 work, that is expressed in words, numbers, or other verbal or numerical symbols or
6 indicia, if the literary work is generally recognized in the ordinary and usual sense
7 as a book, work of fiction or nonfiction, or a short story, but does not include
8 newspapers or other news or information products, periodicals, chat room
9 discussions, or blogs.

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

11 77.51 (3pc) "Digital code" means a code that provides the person who holds the
12 code a right to obtain an additional digital good, a digital audiovisual work, digital
13 audio work, or digital book and that may be obtained by any means, including
14 tangible forms and electronic mail, regardless of whether the code is designated as
15 song code, video code, or book code. "Digital code" includes codes used to access or
16 obtain any specified digital goods, or any additional digital goods that have been
17 previously purchased, and promotion cards or codes that are purchased by a retailer
18 or other business entity for use by the retailer's or entity's customers. "Digital code"
19 does not include the following:

20 (a) A code that represents any redeemable card, gift card, or gift certificate that
21 entitles the holder of such card or certificate to select any specified digital goods or
22 additional digital goods at the cash value indicated by the card or certificate.

23 (b) Digital cash that represents a monetary value that a customer may use to
24 pay for a future purchase.

25 ~~**SECTION 7.** 77.51 (3po) of the statutes is created to read:~~

INJECT 14-14

1 77.51 (3po) "Electronic" means relating to technology having electrical, digital,
2 magnetic, wireless, optical, electromagnetic, or similar capabilities.

3 SECTION 8. 77.51 (3rm) of the statutes is created to read:

4 77.51 (3rm) "Finished artwork" means the final art used for actual
5 reproduction by photomechanical or other processes or for display purposes.
6 "Finished artwork" also includes all of the following items regardless of whether such
7 items are reproduced:

8 (a) Drawings.

9 (b) Paintings.

10 (c) Designs.

11 (d) Photographs.

12 (e) Lettering.

13 (f) Paste-ups.

14 (g) Mechanicals.

15 (h) Assemblies.

16 (i) Charts.

17 (j) Graphs.

18 (k) Illustrative materials.

19 SECTION 9. 77.51 (4) (a) (intro.) of the statutes is amended to read:

20 77.51 (4) (a) (intro.) Except as provided in par. (cm), "gross receipts" means the
21 total amount of the sale, license, lease, or rental price, as the case may be, from sales
22 at retail of tangible personal property, specified digital goods, additional digital
23 goods, or taxable services, valued in money, whether received in money or otherwise,
24 without any deduction on account of the following:

25 SECTION 10. 77.51 (4) (a) 1. of the statutes is amended to read:

1 77.51 (4) (a) 1. The cost of the property, specified digital goods, or additional
2 digital goods sold;

3 **SECTION 11.** 77.51 (4) (a) 3. of the statutes is amended to read:

4 77.51 (4) (a) 3. The cost of transportation of the property, specified digital good,
5 or additional digital good prior to its sale to the purchaser;

6 **SECTION 12.** 77.51 (4) (b) 2. of the statutes is amended to read:

7 77.51 (4) (b) 2. Such part of the sales price as is refunded in cash or credit as
8 a result of property, specified digital goods, and additional goods returned or
9 adjustments in the sales price after the sale has been completed, provided the seller
10 has included the said refunded receipts in a prior return made by such seller and has
11 paid the tax thereon; and provided the seller has returned to the purchaser in cash
12 or credit any and all tax previously paid by the purchaser on the amount of such
13 refund at the time of the purchase.

14 **SECTION 13.** 77.51 (4) (b) 3. of the statutes is amended to read:

15 77.51 (4) (b) 3. In all transactions, except those to which subd. 7. applies, in
16 which an article of tangible personal property, specified digital good, or additional
17 digital good is traded toward the purchase of an article or good of greater value, the
18 gross receipts shall be only that portion of the purchase price represented by the
19 difference between the full purchase price of the article or good of greater value and
20 the amount allowed for the article or good traded.

21 **SECTION 14.** 77.51 (4) (c) 2. of the statutes is amended to read:

22 77.51 (4) (c) 2. Any services that are a part of the sale of tangible personal
23 property, specified digital goods, or additional digital goods, including any fee,
24 service charge, labor charge, or other addition to the price charged a customer by the
25 retailer which represents or is in lieu of a tip or gratuity.

1 **SECTION 15.** 77.51 (4) (c) 4. of the statutes is amended to read:

2 77.51 (4) (c) 4. The price received for labor or services used in installing or
3 applying tangible personal property, specified digital goods, or additional digital
4 goods sold, except the price received for installing or applying property or goods
5 which, when installed or applied, will constitute an addition or capital improvement
6 of real property and provided such amount is separately set forth from the amount
7 received for the tangible personal property, specified digital goods, or additional
8 digital goods.

9 **SECTION 16.** 77.51 (4) (c) 5. of the statutes is amended to read:

10 77.51 (4) (c) 5. If a lessor of tangible personal property, specified digital goods,
11 or additional digital goods reimbursed the vendor for sales tax on the sale of the
12 property or goods by the vendor to the lessor, the tax due from the lessor on the rental
13 receipts may be offset by a credit equal to, but not exceeding, the tax otherwise due
14 on the rental receipts from ~~this~~ the property or goods for the reporting period. The
15 credit shall expire when the cumulative rental receipts equal the sales price upon
16 which the vendor paid sales taxes to this state. If a purchaser of tangible personal
17 property, specified digital goods, or additional digital goods reimbursed the vendor
18 of the property or goods for sales tax on the sale and subsequently, prior to making
19 any use of the property or goods other than retention, demonstration or display while
20 holding ~~it~~ the property or goods for sale or rental, makes a taxable sale of the property
21 or goods, the tax due on the taxable sale may be offset by the tax reimbursed.

22 **SECTION 17.** 77.51 (5) of the statutes is amended to read:

23 77.51 (5) For purposes of subs. (13) (e) and (f) and (14) (L) and s. 77.52 (2m)
24 “incidental” means depending upon or appertaining to something else as primary;
25 something necessary, appertaining to, or depending upon another which is termed

1 the principal; something incidental to the main purpose of the service. Tangible
2 personal property, specified digital goods, or additional digital goods transferred by
3 a service provider is are incidental to the service if the purchaser's main purpose or
4 objective is to obtain the service rather than the property or goods, even though the
5 property or goods may be necessary or essential to providing the service.

6 **SECTION 18.** 77.51 (9) (a) of the statutes is amended to read:

7 77.51 (9) (a) Isolated and sporadic sales of tangible personal property, specified
8 digital goods, additional digital goods, or taxable services where the infrequency, in
9 relation to the other circumstances, including the sales price and the gross profit,
10 support the inference that the seller is not pursuing a vocation, occupation or
11 business or a partial vocation or occupation or part-time business as a vendor of
12 personal property, specified digital goods, additional digital goods, or taxable
13 services. No sale of any tangible personal property, specified digital goods, additional
14 digital goods, or taxable service may be deemed an occasional sale if at the time of
15 such sale the seller holds or is required to hold a seller's permit, except that this
16 provision does not apply to an organization required to hold a seller's permit solely
17 for the purpose of conducting bingo games and except as provided in par. (am).

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

19 77.51 (9) (am) The sale of personal property, other than inventory held for sale,
20 previously used by a seller to conduct its trade or business at a location after that
21 person has ceased actively operating in the regular course of business as a seller of
22 tangible personal property, specified digital goods, additional digital goods, or
23 taxable services at that location, even though the seller holds a seller's permit for one
24 or more other locations.

25 **SECTION 20.** 77.51 (12) (a) of the statutes is amended to read:

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

9 **SECTION 21.** 77.51 (12) (b) of the statutes is amended to read:

10 77.51 (12) (b) A transaction whereby the possession of property, specified
11 digital goods, or additional digital goods is transferred but the seller retains the title
12 as security for the payment of the price.

13 **SECTION 22.** 77.51 (13) (a) of the statutes is amended to read:

14 77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale
15 is mercantile in nature, of tangible personal property, specified digital goods,
16 additional digital goods, or a service specified under s. 77.52 (2) (a).

17 **SECTION 23.** 77.51 (13) (b) of the statutes is amended to read:

18 77.51 (13) (b) Every person engaged in the business of making sales of tangible
19 personal property, specified digital goods, or additional digital goods for storage, use
20 or consumption or in the business of making sales at auction of tangible personal
21 property, specified digital goods, or additional digital goods owned by the person or
22 others for storage, use or other consumption.

23 **SECTION 24.** 77.51 (13) (c) of the statutes is amended to read:

24 77.51 (13) (c) When the department determines that it is necessary for the
25 efficient administration of this subchapter to regard any salespersons,

1 representatives, peddlers or canvassers as the agents of the dealers, distributors,
2 supervisors or employers under whom they operate or from whom they obtain the
3 tangible personal property, specified digital goods, or additional digital goods sold by
4 them, irrespective of whether they are making the sales on their own behalf or on
5 behalf of such dealers, distributors, supervisors or employers, the department may
6 so regard them and may regard the dealers, distributors, supervisors or employers
7 as retailers for purposes of this subchapter.

8 **SECTION 25.** 77.51 (13) (d) of the statutes is amended to read:

9 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible
10 personal property, specified digital goods, or additional digital goods to a person
11 other than a seller as defined in sub. (17) provided such wholesaler is not expressly
12 exempt from the sales tax on such sale or from collecting the use tax on such sale.

13 **SECTION 26.** 77.51 (13) (e) of the statutes is amended to read:

14 77.51 (13) (e) A person selling tangible personal property, specified digital
15 goods, or additional digital goods to a service provider who transfers the property or
16 goods in conjunction with the selling, performing or furnishing of any service and the
17 property is or goods are incidental to the service, unless the service provider is
18 selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11. and 20.
19 This subsection does not apply to sub. (2).

20 **SECTION 27.** 77.51 (13) (f) of the statutes is amended to read:

21 77.51 (13) (f) A service provider who transfers tangible personal property,
22 specified digital goods, or additional digital goods in conjunction with but not
23 incidental to the selling, performing or furnishing of any service and a service
24 provider selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11.
25 and 20. This subsection does not apply to sub. (2).

1 **SECTION 28.** 77.51 (13) (k) of the statutes is amended to read:

2 77.51 (13) (k) As respects a lease, any person deriving rentals from a lease of
3 tangible personal property, specified digital goods, or additional digital goods
4 situated in this state.

5 **SECTION 29.** 77.51 (13) (m) of the statutes is amended to read:

6 77.51 (13) (m) A person selling tangible personal property, specified digital
7 goods, or additional digital goods to a veterinarian to be used or furnished by the
8 veterinarian in the performance of services in some manner related to domestic
9 animals, including pets or poultry.

10 **SECTION 30.** 77.51 (13) (n) of the statutes is amended to read:

11 77.51 (13) (n) A person selling household furniture, furnishings, equipment,
12 appliances or other items of tangible personal property, specified digital goods, or
13 additional digital goods to a landlord for use by tenants in leased or rented living
14 quarters.

15 **SECTION 31.** 77.51 (13r) of the statutes is amended to read:

16 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall
17 be deemed the consumer of the tangible personal property, specified digital goods,
18 additional digital goods, or services purchased.

19 **SECTION 32.** 77.51 (13rm) of the statutes is created to read:

20 77.51 (13rm) “Ringtones” mean digitized sound files that are downloaded onto
21 a device and that may be used to alert the customer regarding a communication, but
22 not including ringback tones or other digital audio files that are not stored on the
23 purchaser’s communication device.

24 **SECTION 33.** 77.51 (14) (intro.) of the statutes is amended to read:

1 77.51 (14) (intro.) “Sale”, “sale, lease or rental”, “retail sale”, “sale at retail”, or
2 equivalent terms include any one or all of the following: the transfer of the ownership
3 of, title to, possession of, or enjoyment of tangible personal property, specified digital
4 goods, additional digital goods, or services for use or consumption but not for resale
5 as tangible personal property, goods, or services and includes:

6 **SECTION 34.** 77.51 (14) (a) of the statutes is amended to read:

7 77.51 (14) (a) Any sale at an auction ~~in~~ with respect to tangible personal
8 property, specified digital goods, or additional digital goods which is are sold to a
9 successful bidder. The proceeds from the sale of property or goods sold at auction
10 which is are bid in by the seller and on which title does not pass to a new purchaser
11 shall be deducted from the gross proceeds of the sale and the tax paid only on the net
12 proceeds.

13 **SECTION 35.** 77.51 (14) (b) of the statutes is amended to read:

14 77.51 (14) (b) The furnishing or distributing of tangible personal property,
15 specified digital goods, additional digital goods, or taxable services for a
16 consideration by social clubs and fraternal organizations to their members or others.

17 **SECTION 36.** 77.51 (14) (c) of the statutes is amended to read:

18 77.51 (14) (c) A transaction whereby the possession of tangible personal
19 property ~~is~~, specified digital goods, or additional digital goods are transferred but the
20 seller retains the title as security for the payment of the price.

21 **SECTION 37.** 77.51 (14) (d) of the statutes is amended to read:

22 77.51 (14) (d) The delivery in this state of tangible personal property, specified
23 digital goods, or additional digital goods by an owner or former owner thereof or by
24 a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer
25 or person for redelivery to a consumer, pursuant to a retail sale made by a retailer

1 not engaged in business in this state. The person making the delivery shall include
2 the retail selling price of the property, specified digital goods, or additional digital
3 goods in that person's gross receipts.

4 **SECTION 38.** 77.51 (14) (h) of the statutes is amended to read:

5 77.51 (14) (h) A transfer for a consideration of the title or possession of tangible
6 personal property, specified digital goods, or additional digital goods which has have
7 been produced, fabricated or printed to the special order of the customer or of any
8 publication.

9 **SECTION 39.** 77.51 (14) (j) of the statutes is amended to read:

10 77.51 (14) (j) The granting of possession of tangible personal property, specified
11 digital goods, or additional digital goods by a lessor to a lessee, or to another person
12 at the direction of the lessee. Such a transaction is deemed a continuing sale in this
13 state by the lessor for the duration of the lease as respects any period of time the
14 leased property is or goods are situated in this state, irrespective of the time or place
15 of delivery of the property or goods to the lessee or such other person.

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

17 77.51 (14) (k) Any sale of tangible personal property, specified digital goods, or
18 additional digital goods to a purchaser even though such property or goods may be
19 used or consumed by some other person to whom such purchaser transfers the
20 tangible personal property, specified digital goods, or additional digital goods
21 without valuable consideration, such as gifts, and advertising specialties distributed
22 gratis apart from the sale of other tangible personal property, specified digital goods,
23 additional digital goods, or service.

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

1 77.51 (14) (L) Transfers by a service provider of tangible personal property,
2 specified digital goods, or additional digital goods in conjunction with but not
3 incidental to the selling, performing or furnishing of any service, and transfers by a
4 service provider selling, performing or furnishing services under s. 77.52 (2) (a) 7.,
5 10., 11. and 20. This subsection does not apply to sub. (2).

6 **SECTION 42.** 77.51 (14g) (a) of the statutes is amended to read:

7 77.51 (14g) (a) The transfer of property, specified digital goods, or additional
8 digital goods to a corporation upon its organization solely in consideration for the
9 issuance of its stock;

10 **SECTION 43.** 77.51 (14g) (b) of the statutes is amended to read:

11 77.51 (14g) (b) The contribution of property, specified digital goods, or
12 additional digital goods to a newly formed partnership solely in consideration for a
13 partnership interest therein;

14 **SECTION 44.** 77.51 (14g) (bm) of the statutes is amended to read:

15 77.51 (14g) (bm) The contribution of property, specified digital goods, or
16 additional digital goods to a limited liability company upon its organization solely in
17 consideration for a membership interest;

18 **SECTION 45.** 77.51 (14g) (c) of the statutes is amended to read:

19 77.51 (14g) (c) The transfer of property, specified digital goods, or additional
20 digital goods to a corporation, solely in consideration for the issuance of its stock,
21 pursuant to a merger or consolidation;

22 **SECTION 46.** 77.51 (14g) (cm) of the statutes is amended to read:

23 77.51 (14g) (cm) The transfer of property, specified digital goods, or additional
24 digital goods to a limited liability company, solely in consideration for a membership
25 interest, pursuant to a merger;

1 **SECTION 47.** 77.51 (14g) (d) of the statutes is amended to read:

2 77.51 (14g) (d) The distribution of property, specified digital goods, or
3 additional digital goods by a corporation to its stockholders as a dividend or in whole
4 or partial liquidation;

5 **SECTION 48.** 77.51 (14g) (e) of the statutes is amended to read:

6 77.51 (14g) (e) The distribution of property, specified digital goods, or
7 additional digital goods by a partnership to its partners in whole or partial
8 liquidation;

9 **SECTION 49.** 77.51 (14g) (em) of the statutes is amended to read:

10 77.51 (14g) (em) The distribution of property, specified digital goods, or
11 additional digital goods by a limited liability company to its members in whole or
12 partial liquidation;

13 **SECTION 50.** 77.51 (14g) (f) of the statutes is amended to read:

14 77.51 (14g) (f) Repossession of property, specified digital goods, or additional
15 digital goods by the seller from the purchaser when the only consideration is
16 cancellation of the purchaser's obligation to pay the remaining balance of the
17 purchase price;

18 **SECTION 51.** 77.51 (14g) (g) of the statutes is amended to read:

19 77.51 (14g) (g) The transfer of property, specified digital goods, or additional
20 digital goods in a reorganization as defined in section 368 of the internal revenue
21 code in which no gain or loss is recognized for franchise or income tax purposes; or

22 **SECTION 52.** 77.51 (14g) (h) of the statutes is amended to read:

23 77.51 (14g) (h) Any transfer of all or substantially all the property, specified
24 digital goods, or additional digital goods held or used by a person in the course of an
25 activity requiring the holding of a seller's permit, if after the transfer the real or

1 ultimate ownership of the property or goods is substantially similar to that which
2 existed before the transfer. For the purposes of this section, stockholders,
3 bondholders, partners, members or other persons holding an interest in a
4 corporation or other entity are regarded as having the real or ultimate ownership of
5 the property or goods of the corporation or other entity. In this paragraph,
6 “substantially similar” means 80% or more of ownership.

7 **SECTION 53.** 77.51 (15) (a) (intro.) of the statutes is amended to read:

8 77.51 (15) (a) (intro.) Except as provided in par. (cm), “sales price” means the
9 total amount for which tangible personal property is, specified digital goods, or
10 additional goods are sold, licensed, leased, or rented, valued in money, whether paid
11 in money or otherwise, without any deduction on account of any of the following:

12 **SECTION 54.** 77.51 (15) (a) 1. of the statutes is amended to read:

13 77.51 (15) (a) 1. The cost of the property, specified digital goods, or additional
14 goods sold.

15 **SECTION 55.** 77.51 (15) (a) 3. of the statutes is amended to read:

16 77.51 (15) (a) 3. The cost of transportation of the property, specified digital
17 good, or additional good prior to its purchase.

18 **SECTION 56.** 77.51 (15) (b) 2. of the statutes is amended to read:

19 77.51 (15) (b) 2. The amount charged for property, specified digital goods, or
20 additional goods returned by customers when that entire amount is refunded either
21 in cash or in credit.

22 **SECTION 57.** 77.51 (15) (b) 3. of the statutes is amended to read:

23 77.51 (15) (b) 3. Transportation charges separately stated, if the transportation
24 occurs after the purchase of the property, specified digital goods, or additional goods
25 is made.

1 **SECTION 58.** 77.51 (15) (b) 4. of the statutes is amended to read:

2 77.51 (15) (b) 4. In all transactions, except those to which subd. 6. applies, in
3 which an article of tangible personal property, specified digital good, or additional
4 digital good is traded toward the purchase of an article or good of greater value, the
5 sales price shall be only that portion of the purchase price represented by the
6 difference between the full purchase price of the article or good of greater value and
7 the amount allowed for the article or good traded.

8 **SECTION 59.** 77.51 (15) (c) 1. of the statutes is amended to read:

9 77.51 (15) (c) 1. Any services that are a part of the sale of tangible personal
10 property, specified digital goods, or additional digital goods, including any fee,
11 service charge, labor charge, or other addition to the price charged a customer by the
12 retailer which represents or is in lieu of a tip or gratuity.

13 **SECTION 60.** 77.51 (15) (c) 2. of the statutes is amended to read:

14 77.51 (15) (c) 2. The amount charged for labor or services rendered in installing
15 or applying tangible personal property, specified digital goods, or additional digital
16 goods sold, except the price received for installing or applying property or goods
17 which, when installed or applied, will constitute an addition or capital improvement
18 of real property and provided such amount is separately set forth from the amount
19 charged for the tangible personal property, specified digital goods, or additional
20 digital goods.

21 **SECTION 61.** 77.51 (17) (intro.) of the statutes is amended to read:

22 77.51 (17) (intro.) "Seller" includes every person selling, licensing, leasing, or
23 renting tangible personal property, specified digital goods, or additional digital goods
24 or selling, performing, or furnishing services of a kind the gross receipts from the

INDEBT
42-15

1 sale, license, lease, rental, performance, or furnishing of which are required to be
2 included in the measure of the sales tax, regardless of all of the following:

3 **SECTION 62.** 77.51 (17x) of the statutes is created to read:

4 77.51 (17x) "Specified digital goods" means digital audio works, digital
5 audiovisual works, and digital books. For purposes of this subchapter, the sale of or
6 the storage, use, or other consumption of a digital code is treated the same as the sale
7 of or the storage, use, or other consumption of any specified digital goods for which
8 the digital code relates.

9 **SECTION 63.** 77.51 (18) of the statutes is amended to read:

10 77.51 (18) "Storage" includes any keeping or retention in this state of tangible
11 personal property, specified digital goods, or additional digital goods purchased from
12 a retailer for any purpose except sale in the regular course of business.

13 **SECTION 64.** 77.51 (20) of the statutes is amended to read:

14 77.51 (20) "Tangible personal property" means all tangible personal property
15 of every kind and description and includes electricity, natural gas, steam and water
16 and also leased property affixed to realty if the lessor has the right to remove the
17 property upon breach or termination of the lease agreement, unless the lessor of the
18 property is also the lessor of the realty to which the property is affixed. "Tangible
19 personal property" also includes coins and stamps of the United States sold or traded
20 as collectors' items above their face value and computer programs except custom
21 computer programs. "Tangible personal property" does not include specified digital
22 goods or additional digital goods.

23 **SECTION 65.** 77.51 (21q) of the statutes is created to read:

24 77.51 (21q) "Transferred electronically" means accessed or obtained by the
25 purchaser by means other than tangible storage media.

1 **SECTION 66.** 77.51 (22) (a) of the statutes is amended to read:

2 77.51 **(22)** (a) “Use” includes the exercise of any right or power over tangible
3 personal property, specified digital goods, additional digital goods, or taxable
4 services incident to the ownership, possession or enjoyment of the property, goods,
5 or services, or the results produced by the services, including installation or
6 affixation to real property and including the possession of, or the exercise of any right
7 or power over tangible personal property, specified digital goods, or additional digital
8 goods by a lessee under a lease, except that “use” does not include the activities under
9 sub. (18).

10 **SECTION 67.** 77.51 (22) (b) of the statutes is amended to read:

11 77.51 **(22)** (b) In this subsection, “enjoyment” includes a purchaser’s right to
12 direct the disposition of property, specified digital goods, or additional digital goods,
13 whether or not the purchaser has possession of the property or goods. “Enjoyment”
14 also includes, but is not limited to, having shipped into this state by an out-of-state
15 supplier printed material which is designed to promote the sale of property, specified
16 digital goods, additional digital goods, or services, or which is otherwise related to
17 the business activities, of the purchaser of the printed material or printing service.

18 **SECTION 68.** 77.51 (22) (bm) of the statutes is created to read:

19 77.51 **(22)** (bm) In this subsection, “exercise of any right or power over tangible
20 personal property, specified digital goods, additional digital goods, or taxable
21 services” includes distributing, selecting recipients, determining mailing schedules,
22 or otherwise directing the distribution, dissemination, or disposal of tangible
23 personal property, specified digital goods, additional digital goods, or taxable
24 services, regardless of whether the purchaser of such property, goods, or services
25 owns or physically possesses, in this state, the property, goods, or services.

INSENT
48-14

1 ~~SECTION 69. 77.52 (1) of the statutes is renumbered 77.52 (1) (a).~~

2 ~~SECTION 70. 77.52 (1) (b) of the statutes is created to read:~~

3 77.52 (1) ^(b) A tax is imposed on all retailers at the rate of 5 percent of the sales
4 price from the sale, lease, license, or rental of specified digital goods and additional
5 digital goods at retail for the right to use the specified digital goods or additional
6 digital goods on a permanent or less than permanent basis and regardless of whether
7 the purchaser is required to make continued payments for such right.

8 SECTION 71. 77.52 (1b) of the statutes is amended to read:

9 ~~77.52 (1b) All sales, licenses, leases, or rentals of tangible personal property,
10 specified digital goods, and additional digital goods at retail in this state are subject
11 to the tax imposed under sub. (1) unless an exemption in this subchapter applies.~~

12 SECTION 72. 77.52 (2) (intro.) of the statutes is amended to read:

13 ~~77.52 (2) (intro.) For the privilege of selling, performing or furnishing the
14 services described under par. (a) at retail in this state to consumers or users,
15 regardless of whether the service is conditioned on continued payment from the
16 purchaser, a tax is imposed upon all persons selling, performing or furnishing the
17 services at the rate of 5% of the gross receipts from the sale, performance or
18 furnishing of the services.~~

19 SECTION 73. 77.52 (2) (a) 10. of the statutes is amended to read:

20 ~~77.52 (2) (a) 10. Except for services provided by veterinarians and except for
21 installing or applying tangible personal property, specified digital goods, or
22 additional digital goods that, subject to par. (ag), when installed or applied, will
23 constitute an addition or capital improvement of real property, the repair, service,
24 alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance
25 of all items of tangible personal property, specified digital goods, and additional~~

1 digital goods, unless, at the time of that repair, service, alteration, fitting, cleaning,
2 painting, coating, towing, inspection, or maintenance, a sale in this state of the type
3 of property or goods repaired, serviced, altered, fitted, cleaned, painted, coated,
4 towed, inspected, or maintained would have been exempt to the customer from sales
5 taxation under this subchapter, other than the exempt sale of a motor vehicle or truck
6 body to a nonresident under s. 77.54 (5) (a) and other than nontaxable sales under
7 s. 77.51 (14r). The tax imposed under this subsection applies to the repair, service,
8 alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of
9 items listed in par. (ag), regardless of whether the installation or application of
10 tangible personal property, specified digital goods, or additional digital goods related
11 to the items is an addition to or a capital improvement of real property, except that
12 the tax imposed under this subsection does not apply to the original installation or
13 the complete replacement of an item listed in par. (ag), if that installation or
14 replacement is a real property construction activity under s. 77.51 (2).

15 **SECTION 74.** 77.52 (2m) (a) of the statutes is amended to read:

16 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part
17 of the charge for the service may be deemed a sale or rental of tangible personal
18 property, specified digital goods, or additional digital goods, if the property or goods
19 transferred by the service provider is incidental to the selling, performing or
20 furnishing of the service, except as provided in par. (b).

21 **SECTION 75.** 77.52 (2m) (b) of the statutes is amended to read:

22 77.52 (2m) (b) With respect to the services subject to tax under sub. (2) (a) 7.,
23 10., 11. and 20., all property, specified digital goods, or digital additional goods,
24 physically transferred, or transferred electronically, to the customer in conjunction
25 with the selling, performing or furnishing of the service is a sale of tangible personal

1 property, specified digital goods, or additional digital goods separate from the selling,
2 performing or furnishing of the service.

3 **SECTION 76.** 77.52 (4) of the statutes is amended to read:

4 77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the
5 public or to any customer, directly or indirectly, that the tax or any part thereof will
6 be assumed or absorbed by the retailer or that it will not be added to the selling price
7 of the property, specified digital goods, or additional digital goods sold or that if added
8 it, or any part thereof, will be refunded. Any person who violates this subsection is
9 guilty of a misdemeanor.

10 **SECTION 77.** 77.52 (12) of the statutes is amended to read:

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

22 **SECTION 78.** 77.52 (13) of the statutes is amended to read:

23 77.52 (13) For the purpose of the proper administration of this section and to
24 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
25 the tax until the contrary is established. The burden of proving that a sale of tangible

1 personal property, specified digital goods, additional digital goods, or services is not
2 a taxable sale at retail is upon the person who makes the sale unless that person
3 takes from the purchaser a certificate to the effect that the property, digital good, or
4 service is purchased for resale or is otherwise exempt; except that no certificate is
5 required for sales of cattle, sheep, goats, and pigs that are sold at an animal market,
6 as defined in s. 95.68 (1) (ag), and no certificate is required for sales of commodities,
7 as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which
8 the commodity is deliverable on a contract for future delivery subject to the rules of
9 a commodity market regulated by the U.S. commodity futures trading commission
10 if upon the sale the commodity is not removed from the warehouse.

11 **SECTION 79.** 77.52 (14) (a) 1. of the statutes is amended to read:

12 77.52 (14) (a) 1. The certificate is taken in good faith from a person who is
13 engaged as a seller of tangible personal property, specified digital goods, additional
14 digital goods, or taxable services and who holds the permit provided for in sub. (9)
15 and who, at the time of purchasing the tangible personal property, specified digital
16 goods, additional digital goods, or services, intends to sell it the property, goods, or
17 services in the regular course of operations or is unable to ascertain at the time of
18 purchase whether the property, goods, or service services will be sold or will be used
19 for some other purpose.

20 **SECTION 80.** 77.52 (14) (b) of the statutes is amended to read:

21 77.52 (14) (b) The certificate referred to in sub. (13) shall be signed by and bear
22 the name and address of the purchaser, and shall indicate the general character of
23 the tangible personal property, specified digital goods, additional digital goods, or
24 service sold by the purchaser and the basis for the claimed exemption. The certificate
25 shall be in such form as the department prescribes.

1 **SECTION 81.** 77.52 (15) of the statutes is amended to read:

2 77.52 (15) If a purchaser who gives a resale certificate makes any use of the
3 property, specified digital goods, or additional digital goods other than retention,
4 demonstration or display while holding it the property or goods for sale, lease or
5 rental in the regular course of the purchaser's operations, the use shall be taxable
6 to the purchaser under s. 77.53 as of the time the property is or goods are first used
7 by the purchaser, and the sales price of the property or goods to the purchaser shall
8 be the measure of the tax. Only when there is an unsatisfied use tax liability on this
9 basis because the seller has provided incorrect information about that transaction
10 to the department shall the seller be liable for sales tax with respect to the sale of the
11 property or goods to the purchaser.

12 **SECTION 82.** 77.52 (16) of the statutes is amended to read:

13 77.52 (16) Any person who gives a resale certificate for property, specified
14 digital goods, additional digital goods, or services which that person knows at the
15 time of purchase is not to be resold by that person in the regular course of that
16 person's operations as a seller for the purpose of evading payment to the seller of the
17 amount of the tax applicable to the transaction is guilty of a misdemeanor. Any
18 person certifying to the seller that the sale of property, specified digital goods,
19 additional digital goods, or taxable service is exempt, knowing at the time of
20 purchase that it is not exempt, for the purpose of evading payment to the seller of the
21 amount of the tax applicable to the transaction, is guilty of a misdemeanor.

22 **SECTION 83.** 77.52 (19) of the statutes is amended to read:

23 77.52 (19) The department shall by rule provide for the efficient collection of
24 the taxes imposed by this subchapter on sales of property, specified digital goods,
25 additional digital goods, or services by persons not regularly engaged in selling at

INSERT 62-2

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

7 SECTION 84. 77.522 of the statutes is created to read:

8 **77.522 Sourcing of digital goods.** (1) In this section, "receives" means
 9 taking possession or making first use of, whichever is first, the specified digital good
 10 or additional digital good.

11 (2) The location of a sale of a specified digital good or additional digital good
 12 is determined as follows: *under s. 77.52(1)(d)*

13 (a) If a purchaser receives the digital good at a seller's business location, the
 14 sale occurs at that business location.

15 (b) If a purchaser does not receive the digital good at a seller's business location,
 16 the sale occurs at the location where the purchaser, or the purchaser's designated
 17 donee, receives the digital good, including the location indicated by the instructions
 18 known to the seller for delivery to the purchaser or the purchaser's designated donee.

19 (c) If the location of a sale of the digital good cannot be determined under par.

20 (a) or (b), the sale occurs at the purchaser's address as indicated by the seller's
 21 business records, if the records are maintained in the ordinary course of the seller's
 22 business and if using that address to establish the location of the sale is not in bad
 23 faith.

24 (d) If the location of a sale of the digital good cannot be determined under par.

25 (a), (b), or (c), the sale occurs at the purchaser's address as obtained during the

1., 2., or 3.

INSERT 62-2

62-2

1 consummation of the sale, including the address indicated on the purchaser's
2 payment instrument, if no other address is available and if using that address is not
3 in bad faith. 5.

4 (e) If the location of a sale of the digital good cannot be determined under ^{subd.} par.
5 (a), (b), (c), or (d), including the circumstance in which the seller has insufficient
6 information to determine the location under ^{1, 2, 3, or 4.} par. (a), (b), (c), or (d), the sale occurs at
7 the location from which the digital good was first available for transmission by the
8 seller, not including any location from which the digital good was merely transferred
9 electronically. (b) ^{subd. 1, 2, 3, or 4.}

10 (3) The location of a license of a specified digital good or additional digital good
11 is determined as follows: ^{under s. 77.52(1)(d)}

12 (a) With regard to the first or only payment on the license of the digital good,
13 the license occurs at the location determined under ^{par. (a)} sub. (2).

14 (b) If the digital good is moved from the place where the digital good was
15 initially delivered, the subsequent periodic payments on the license occur at the
16 digital good's primary location as indicated by an address for the digital good that is
17 provided by the licensee and that is available to the licensor in records that the
18 licensor maintains in the ordinary course of the licensor's business, if the use of such
19 an address does not constitute bad faith. The location of a license as determined
20 under this paragraph shall not be altered by any intermittent use of the digital good
21 at different locations. ^{end of insert 62-2}

22 SECTION 85. 77.53 (1) of the statutes is amended to read:

23 77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed
24 on the use or consumption in this state of taxable services under s. 77.52 purchased
25 from any retailer, at the rate of 5% 5 percent of the sales price of those services; on

1 the storage, use or other consumption in this state of tangible personal property
2 purchased from any retailer, at the rate of ~~5%~~ 5 percent of the sales price of that
3 property; on the storage, use, or other consumption of specified digital goods or
4 additional digital goods purchased from any retailer, if the purchaser has the right
5 to use the specified digital goods or additional digital goods on a permanent or less
6 than permanent basis and regardless of whether the purchaser is required to make
7 continued payments for such right, at the rate of 5 percent of the sales price of such
8 goods; and on the storage, use or other consumption of tangible personal property
9 manufactured, processed or otherwise altered, in or outside this state, by the person
10 who stores, uses or consumes it, from material purchased from any retailer, at the
11 rate of ~~5%~~ 5 percent of the sales price of that material.

12 **SECTION 86.** 77.53 (1b) of the statutes is amended to read:

13 77.53 (1b) The storage, use, or other consumption in this state of tangible
14 personal property, specified digital goods, or additional digital goods, and the use or
15 other consumption in this state of a taxable service, purchased from any retailer is
16 subject to the tax imposed in this section unless an exemption in this subchapter
17 applies.

18 **SECTION 87.** 77.53 (2) of the statutes is amended to read:

19 77.53 (2) Every person storing, using or otherwise consuming in this state
20 tangible personal property, specified digital goods, additional digital goods, or
21 taxable services purchased from a retailer is liable for the tax imposed by this section.
22 The person's liability is not extinguished until the tax has been paid to this state, but
23 a receipt with the tax separately stated from a retailer engaged in business in this
24 state or from a retailer who is authorized by the department, under such rules as it
25 prescribes, to collect the tax and who is regarded as a retailer engaged in business

1 in this state for purposes of the tax imposed by this section given to the purchaser
2 under sub. (3) relieves the purchaser from further liability for the tax to which the
3 receipt refers.

4 **SECTION 88.** 77.53 (3) of the statutes is amended to read:

5 77.53 (3) Every retailer engaged in business in this state and making sales of
6 tangible personal property, specified digital goods, additional digital goods, or
7 taxable services for delivery into this state or with knowledge directly or indirectly
8 that the property, digital good, or service is intended for storage, use or other
9 consumption in this state, shall, at the time of making the sales or, if the storage, use
10 or other consumption of the tangible personal property, specified digital goods,
11 additional digital goods, or taxable service is not then taxable under this section, at
12 the time the storage, use or other consumption becomes taxable, collect the tax from
13 the purchaser and give to the purchaser a receipt in the manner and form prescribed
14 by the department.

15 **SECTION 89.** 77.53 (9) of the statutes is amended to read:

16 77.53 (9) Every retailer selling tangible personal property, specified digital
17 goods, additional digital goods, or taxable services for storage, use or other
18 consumption in this state shall register with the department and obtain a certificate
19 under s. 73.03 (50) and give the name and address of all agents operating in this
20 state, the location of all distribution or sales houses or offices or other places of
21 business in this state, the standard industrial code classification of each place of
22 business in this state and the other information that the department requires.

23 **SECTION 90.** 77.53 (9m) of the statutes is amended to read:

24 77.53 (9m) Any person who is not otherwise required to collect any tax imposed
25 by this subchapter and who makes sales to persons within this state of tangible

1 personal property, specified digital goods, additional digital goods, or taxable
2 services the use of which is subject to tax under this subchapter may register with
3 the department under the terms and conditions that the department imposes and
4 shall obtain a valid certificate under s. 73.03 (50) and thereby be authorized and
5 required to collect, report and remit to the department the use tax imposed by this
6 subchapter.

7 **SECTION 91.** 77.53 (10) of the statutes is amended to read:

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

22 **SECTION 92.** 77.53 (11) of the statutes is amended to read:

23 77.53 (11) The certificate referred to in sub. (10) relieves the person selling the
24 property, digital good, or service from the burden of proof only if taken in good faith
25 from a person who is engaged as a seller of tangible personal property, specified

1 digital goods, additional digital goods, or taxable services and who holds the permit
2 provided for by s. 77.52 (9) and who, at the time of purchasing the tangible personal
3 property, specified digital good, additional digital good, or taxable service, intends to
4 sell it in the regular course of operations or is unable to ascertain at the time of
5 purchase whether the property, good, or service will be sold or will be used for some
6 other purpose, or if taken in good faith from a person claiming exemption. The
7 certificate shall be signed by and bear the name and address of the purchaser and
8 shall indicate the number of the permit issued to the purchaser, the general
9 character of tangible personal property, specified digital good, additional digital
10 good, or taxable service sold by the purchaser and the basis for the claimed
11 exemption. The certificate shall be substantially in the form the department
12 prescribes.

13 **SECTION 93.** 77.53 (12) of the statutes is amended to read:

14 77.53 (12) If a purchaser who gives a certificate makes any storage or use of
15 the property, specified digital good, additional digital good, or service other than
16 retention, demonstration or display while holding it for sale in the regular course of
17 operations as a seller, the storage or use is taxable as of the time the property,
18 specified digital good, additional digital good, or service is first so stored or used.

19 **SECTION 94.** 77.53 (14) of the statutes is amended to read:

20 77.53 (14) It is presumed that tangible personal property, specified digital
21 goods, additional digital goods, or taxable services shipped or brought to this state
22 by the purchaser were purchased from or serviced by a retailer.

23 **SECTION 95.** 77.53 (15) of the statutes is amended to read:

24 77.53 (15) It is presumed that tangible personal property, specified digital
25 goods, additional digital goods, or taxable services delivered outside this state to a

1 purchaser known by the retailer to be a resident of this state were purchased from
2 a retailer for storage, use or other consumption in this state and stored, used or
3 otherwise consumed in this state. This presumption may be controverted by a
4 written statement, signed by the purchaser or an authorized representative, and
5 retained by the seller that the property, digital good, or service was purchased for use
6 at a designated point outside this state. This presumption may also be controverted
7 by other evidence satisfactory to the department that the property, digital good, or
8 service was not purchased for storage, use or other consumption in this state.

9 **SECTION 96.** 77.53 (16) of the statutes is amended to read:

10 77.53 (16) If the purchase, rental or lease of tangible personal property,
11 specified digital goods, additional digital goods, or service subject to the tax imposed
12 by this section was subject to a sales tax by another state in which the purchase was
13 made, the amount of sales tax paid the other state shall be applied as a credit against
14 and deducted from the tax, to the extent thereof, imposed by this section. In this
15 subsection “sales tax” includes a use or excise tax imposed on the use of tangible
16 personal property, specified digital goods, additional digital goods, or taxable service
17 by the state in which the sale occurred and “state” includes the District of Columbia
18 but does not include the commonwealth of Puerto Rico or the several territories
19 organized by congress.

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

21 77.53 (17) This section does not apply to tangible personal property, specified
22 digital goods, or additional digital goods purchased outside this state, other than
23 motor vehicles, boats, snowmobiles, recreational vehicles, as defined in s. 340.01
24 (48r), trailers, semitrailers, all-terrain vehicles and airplanes registered or titled or
25 required to be registered or titled in this state, which is brought into this state by a

1 nondomiciliary for the person's own storage, use or other consumption while
2 temporarily within this state when such property or digital good is not stored, used
3 or otherwise consumed in this state in the conduct of a trade, occupation, business
4 or profession or in the performance of personal services for wages or fees.

5 **SECTION 98.** 77.53 (18) of the statutes is amended to read:

6 77.53 (18) This section does not apply to the storage, use or other consumption
7 in this state of household goods, specified digital goods, or additional digital goods
8 for personal use or to aircraft, motor vehicles, boats, snowmobiles, mobile homes,
9 manufactured homes, as defined in s. 101.91 (2), recreational vehicles, as defined in
10 s. 340.01 (48r), trailers, semitrailers and all-terrain vehicles, for personal use,
11 purchased by a nondomiciliary of this state outside this state 90 days or more before
12 bringing the goods or property into this state in connection with a change of domicile
13 to this state.

14 **SECTION 99.** 77.54 (50) of the statutes is created to read:

15 77.54 (50) The sales price from the sale of and the storage, use, or other
16 consumption of specified digital goods or additional digital goods that are transferred
17 electronically to the purchaser, if the sale of and the storage, use, or other
18 consumption of such goods sold in a tangible form is exempt from taxation under this
19 subchapter.

20 **SECTION 100.** 77.57 of the statutes is amended to read:

21 **77.57 Liability of purchaser.** If a purchaser certifies in writing to a seller
22 that the property, specified digital goods, or additional digital goods purchased will
23 be used in a manner or for a purpose entitling the seller to regard the gross receipts
24 from the sale as exempted by this subchapter from the computation of the amount
25 of the sales tax and uses the property, specified digital goods, or additional digital

INERT
92-11

1 goods in some other manner or for some other purpose, the purchaser is liable for
2 payment of the sales tax. The tax shall be measured by the sales price of the property,
3 specified digital goods, or additional digital goods to the purchaser, but if the taxable
4 use first occurs more than 6 months after the sale to the purchaser, the purchaser
5 may use as the measure of the tax either that sales price or the fair market value of
6 the property, specified digital goods, or additional digital goods at the time the
7 taxable use first occurs.

8 **SECTION 101.** 77.58 (3) (a) of the statutes is amended to read:

9 77.58 (3) (a) For purposes of the sales tax a return shall be filed by every seller.
10 For purposes of the use tax a return shall be filed by every retailer engaged in
11 business in this state and by every person purchasing tangible personal property,
12 specified digital goods, additional digital goods, or services, the storage, use or other
13 consumption of which is subject to the use tax, who has not paid the use tax due to
14 a retailer required to collect the tax. If a qualified subchapter S subsidiary is not
15 regarded as a separate entity under ch. 71, the owner of that subsidiary shall include
16 the information for that subsidiary on the owner's return. Returns shall be signed
17 by the person required to file the return or by a duly authorized agent but need not
18 be verified by oath. If a single-owner entity is disregarded as a separate entity under
19 ch. 71, the owner shall include the information from the entity on the owner's return.

20 **SECTION 102.** 77.58 (3) (b) of the statutes is amended to read:

21 77.58 (3) (b) For purposes of the sales tax the return shall show the gross
22 receipts of the seller during the preceding reporting period. For purposes of the use
23 tax, in case of a return filed by a retailer, the return shall show the total sales price
24 of the property, specified digital goods, additional digital goods, or taxable services
25 sold, the storage, use or consumption of which became subject to the use tax during

1 the preceding reporting period. In case of a sales or use tax return filed by a
2 purchaser, the return shall show the total sales price of the property, specified digital
3 goods, additional digital goods, and taxable services purchased, the storage, use or
4 consumption of which became subject to the use tax during the preceding reporting
5 period. The return shall also show the amount of the taxes for the period covered by
6 the return and such other information as the department deems necessary for the
7 proper administration of this subchapter.

8 **SECTION 103.** 77.58 (6) of the statutes is amended to read:

9 77.58 (6) For the purposes of the sales tax gross receipts from rentals or leases
10 of tangible personal property, specified digital goods, and additional digital goods
11 shall be reported and the tax paid in accordance with such rules as the department
12 prescribes.

13 **SECTION 104.** 77.59 (5m) of the statutes is amended to read:

14 77.59 (5m) A seller who receives a refund under sub. (4) (a) or (b) of taxes that
15 the seller has collected from buyers, who collects amounts as taxes erroneously from
16 buyers, but who does not remit such amounts to the state, or who is entitled to a
17 refund under sub. (4) (a) or (b) that is offset under sub. (5), shall submit the taxes and
18 related interest to the buyers from whom the taxes were collected, or to the
19 department if the seller cannot locate the buyers, within 90 days after the date of the
20 refund, after the date of the offset, or after discovering that the seller has collected
21 taxes erroneously from the buyers. If the seller does not submit the taxes and related
22 interest to the department or the buyers within that period, the seller shall submit
23 to the department any part of a refund or taxes that the seller does not submit to a
24 buyer or to the department along with a penalty of 25% of the amount not submitted
25 or, in the case of fraud, a penalty equal to the amount not submitted. A person who

1 collects amounts as taxes erroneously from buyers for a real property construction
2 activity or nontaxable service may reduce the taxes and interest that he or she is
3 required to submit to the buyer or to the department under this subsection for that
4 activity or service by the amount of tax and interest subsequently due and paid on
5 the sale of or the storage, use, or other consumption of tangible personal property,
6 specified digital goods, or additional digital goods that ~~is~~ are used by the person in
7 that activity or service and transferred to the buyer.

8 **SECTION 105.** 77.59 (9) of the statutes is amended to read:

9 77.59 (9) If any person fails to file a return, the department shall make an
10 estimate of the amount of the gross receipts of the person, or, as the case may be, of
11 the amount of the total sales price of tangible personal property, specified digital
12 goods, additional digital goods, or taxable service sold or purchased by the person,
13 the sale by or the storage, use or other consumption of which in this state is subject
14 to sales or use tax. The estimate shall be made for the period in respect to which the
15 person failed to make a return and shall be based upon any information which is in
16 the department's possession or may come into its possession. Upon the basis of this
17 estimate the department shall compute and determine the amount required to be
18 paid to the state, adding to the sum thus arrived at a penalty equal to 25% thereof.
19 One or more such determinations may be made for one or for more than one period.
20 When a business is discontinued a determination may be made at any time
21 thereafter, within the periods specified in sub. (3), as to liability arising out of that
22 business.

23 **SECTION 106.** 77.61 (4) (a) of the statutes is amended to read:

24 77.61 (4) (a) Every seller and retailer and every person storing, using or
25 otherwise consuming in this state tangible personal property, specified digital goods,

1 additional digital goods, or taxable services purchased from a retailer shall keep such
2 records, receipts, invoices and other pertinent papers and records, including
3 machine-readable records, in such form as the department requires. The
4 department may, after giving notice, require any person to keep whatever records are
5 needed for the department to compute the sales or use taxes the person should pay.
6 Thereafter, the department shall add to any taxes assessed on the basis of
7 information not contained in the records required a penalty of 25% of the amount of
8 the tax so assessed in addition to all other penalties under this chapter.

9 **SECTION 107.** 77.61 (11) of the statutes is amended to read:

10 77.61 (11) Any city, village or town clerk or other official whose duty it is to issue
11 licenses or permits to engage in a business involving the sale at retail of tangible
12 personal property, specified digital goods, or additional digital goods subject to tax
13 under this subchapter, or the furnishing of services so subject to tax, shall, before
14 issuing such license or permit, require proof that the person to whom such license
15 or permit is to be issued is the holder of a seller's permit as required by this
16 subchapter or has been informed by an employee of the department that the
17 department will issue a seller's permit to that person.

18 **SECTION 108.** 77.65 (2) (e) of the statutes is amended to read:

19 77.65 (2) (e) "Seller" means any person who sells, licenses, leases, or rents
20 personal property, specified digital goods, additional digital goods, or services.

21 **SECTION 109.** 77.66 of the statutes is amended to read:

22 **77.66 Certification for collection of sales and use tax.** The secretary of
23 revenue shall determine and periodically certify to the secretary of administration
24 the names of persons, and affiliates, as defined in s. 16.70 (1b), of persons, who make
25 sales of tangible personal property, specified digital goods, additional digital goods,

1 and taxable services that are subject to the taxes imposed under this subchapter but
2 who are not registered to collect and remit such taxes to the department or, if
3 registered, do not collect and remit such taxes.

4 **SECTION 110.** 77.71 (1) of the statutes is amended to read:

5 77.71 (1) For the privilege of selling, licensing, leasing or renting tangible
6 personal property, specified digital goods, or additional digital goods and for the
7 privilege of selling, licensing, performing or furnishing services a sales tax is
8 imposed upon retailers at the rate of 0.5% in the case of a county tax or at the rate
9 under s. 77.705 or 77.706 in the case of a special district tax of the gross receipts from
10 the sale, license, lease, or rental of tangible personal property, specified digital goods,
11 or additional digital goods, except property taxed under sub. (4), sold, licensed,
12 leased, or rented at retail in the county or special district or from selling, licensing,
13 performing, or furnishing services described under s. 77.52 (2) in the county or
14 special district.

15 **SECTION 111.** 77.71 (2) of the statutes is amended to read:

16 77.71 (2) An excise tax is imposed at the rate of 0.5% in the case of a county tax
17 or at the rate under s. 77.705 or 77.706 in the case of a special district tax of the sales
18 price upon every person storing, using or otherwise consuming in the county or
19 special district tangible personal property, specified digital goods, additional digital
20 goods, or services if the property, digital good, or service is subject to the state use tax
21 under s. 77.53, except that a receipt indicating that the tax under sub. (1), (3) or (4)
22 has been paid relieves the buyer of liability for the tax under this subsection and
23 except that if the buyer has paid a similar local tax in another state on a purchase
24 of the same property, digital goods, or services that tax shall be credited against the
25 tax under this subsection and except that for motor vehicles that are used for a

1 purpose in addition to retention, demonstration or display while held for sale in the
2 regular course of business by a dealer the tax under this subsection is imposed not
3 on the sales price but on the amount under s. 77.53 (1m).

4 **SECTION 112.** 77.71 (3) of the statutes is amended to read:

5 77.71 (3) An excise tax is imposed upon a contractor engaged in construction
6 activities within the county or special district, at the rate of 0.5% in the case of a
7 county tax or at the rate under s. 77.705 or 77.706 in the case of a special district tax
8 of the sales price of tangible personal property, specified digital goods, or additional
9 digital goods that ~~is~~ are used in constructing, altering, repairing or improving real
10 property and that ~~becomes~~ become a component part of real property in that county
11 or special district, except that if the contractor has paid the sales tax of a county in
12 the case of a county tax or of a special district in the case of a special district tax in
13 this state on that property or digital good, or has paid a similar local sales tax in
14 another state on a purchase of the same property or digital good, that tax shall be
15 credited against the tax under this subsection.

16 **SECTION 113.** 77.73 (2) of the statutes is amended to read:

17 77.73 (2) Counties and special districts do not have jurisdiction to impose the
18 tax under s. 77.71 (2) in regard to tangible personal property, specified digital goods,
19 and additional digital goods purchased in a sale that is consummated in another
20 county or special district in this state that does not have in effect an ordinance or
21 resolution imposing the taxes under this subchapter and later brought by the buyer
22 into the county or special district that has imposed a tax under s. 77.71 (2).

23 **SECTION 114.** 77.785 (1) of the statutes is amended to read:

1 77.785 (1) All retailers shall collect and report the taxes under this subchapter
2 on the gross receipts from leases and rentals of property, specified digital goods, and
3 additional digital goods under s. 77.71 (4).

4 **SECTION 9443. Effective dates; Revenue.**

5 (1) DIGITAL GOODS. The renumbering of section 77.52 (1) of the statutes, the
6 renumbering and amendment of section 77.51 (1) of the statutes, the amendment of
7 sections 77.51 (4) (a) (intro.), 1., and 3., (b) 2. and 3., (c) 2., 4., and 5., (5), (9) (a) and
8 (am), (12) (a) and (b), (13) (a), (b), (c), (d), (e), (f), (k), (m), and (n), (13r), (14) (intro.),
9 (a), (b), (c), (d), (h), (j), (k), and (L), (14g) (a), (b), (bm), (c), (cm), (d), (e), (em), (f), (g),
10 and (h), (15) (a) (intro.), 1. and 3., (b) 2., 3., and 4., (c) 1. and 2., (17) (intro.), (18), (20),
11 and (22) (a) and (b), 77.52 (1b), (2) (intro.) and (a) 10., (2m) (a) and (b), (4), (12), (13),
12 (14) (a) 1. and (b), (15), (16), and (19), 77.53 (1), (1b), (2), (3), (9), (9m), (10), (11), (12),
13 (14), (15), (16), (17), and (18), 77.57, 77.58 (3) (a) and (b) and (6), 77.59 (5m) and (9),
14 77.61 (4) (a) and (11), 77.65 (2) (e), 77.66, 77.71 (1), (2), and (3), 77.73 (2), and 77.785
15 (1) of the statutes, and the creation of sections 77.51 (1a), (3p), (3pa), (3pb), (3pc),
16 (3po), (3rm), (13rm), (17x), (21q), and (22) (bm), 77.52 (1) (b), 77.522, and 77.54 (50)
17 of the statutes take effect on the first day of the 4th month beginning after
18 publication.

19 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0377/P10dn

JK:kjf&wlj:rs

Date

For budget adjustment bill purposes, this draft reconciles LRB-0377/P9 (the Main Street Equity Act) and LRB-0384/P3. LRB-0384 should be dropped from the compile of the budget adjustment bill.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

(digital goods)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0377/P10dn
JK:kjf.md

February 5, 2009

For budget adjustment bill purposes, this draft reconciles LRB-0377/P9 (the Main Street Equity Act) and LRB-0384/P3 (digital goods). LRB-0384 should be dropped from the compile of the budget adjustment bill.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov