

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

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

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

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

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

15           a. A numerator that includes sales of prepared food, as defined in par. (a) 1.,  
16 2., and 4., and food for which plates, bowls, glasses, or cups are necessary to receive  
17 the food, but not including alcoholic beverages.

18           b. A denominator that includes all food and food ingredients, including  
19 prepared food, candy, dietary supplements, and soft drinks, but not including  
20 alcoholic beverages.

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

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

4           3. For a retailer whose percentage determined under subd. 1. is greater than  
5 75 percent, an item sold by the retailer that contains 4 or more servings packaged  
6 as one item and sold for a single price does not become prepared food simply because  
7 the retailer makes utensils available to the purchaser of the item, but does become  
8 prepared food if the retailer physically gives or hands utensils to the purchaser of the  
9 item, except that plates, bowls, glasses, or cups necessary for the purchaser to receive  
10 the food need only be made available to the purchaser. For purposes of this  
11 subdivision 3., serving sizes are based on the information contained on the label of  
12 each item sold, except that, if the item has no label, the serving size is based on the  
13 retailer's reasonable determination.

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

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

22           5. For purposes of par. (a) 3., a retailer shall determine the percentage for the  
23 retailer's tax year or business fiscal year, based on the retailer's data from the  
24 retailer's prior tax year or business fiscal year, as soon as practical after the retailer's  
25 accounting records are available, but not later than 90 days after the day on which

1 the retailer's tax year or business fiscal year begins. For a retailer with more than  
2 one establishment in this state, a single determination under subd. 1. that combines  
3 the information for all of the retailer's establishments in this state shall be made  
4 annually, as provided in this subdivision, and apply to each of the retailer's  
5 establishments in this state. A retailer that has no prior tax year or business fiscal  
6 year shall make a good faith estimate of its percentage for purposes of par. (a) 3. for  
7 the retailer's first tax year or business fiscal year and shall adjust the estimate  
8 prospectively after the first 3 months of the retailer's operations if the actual  
9 percentage is materially different from the estimated percentage.

10 **\*-0377/P10.66\* \*-4294/P1.59\* SECTION 214.** 77.51 (10n) of the statutes is  
11 created to read:

12 77.51 (10n) "Prescription" means an order, formula, or recipe that is issued by  
13 any oral, written, electronic, or other means of transmission and by a person who is  
14 authorized by the laws of this state to issue such an order, formula, or recipe.

15 **\*-0377/P10.67\* \*-4294/P1.60\* SECTION 215.** 77.51 (10r) of the statutes is  
16 created to read:

17 77.51 (10r) "Prewritten computer software" means computer software,  
18 including prewritten upgrades, that is not designed and developed by the author or  
19 other creator to the specifications of a specific purchaser. The combining of 2 or more  
20 "prewritten computer software" programs or prewritten portions of computer  
21 software does not cause the combination to be other than "prewritten computer  
22 software." "Prewritten computer software" includes software designed and  
23 developed by the author or other creator to the specifications of a specific purchaser  
24 if it is sold to a person other than the specific purchaser. For purposes of this  
25 subsection, if a person modifies or enhances computer software of which the person

1 is not the author or creator, the person is the author or creator only of the person's  
2 modifications or enhancements. "Prewritten computer software" or a prewritten  
3 portion of computer software that is modified or enhanced to any degree, with regard  
4 to a modification or enhancement that is designed and developed to the specifications  
5 of a specific purchaser, remains "prewritten computer software," except that if there  
6 is a reasonable, separately stated charge or an invoice or other statement of the price  
7 given to the purchaser for the modification or enhancement, the modification or  
8 enhancement is not "prewritten computer software."

9 **\*-0377/P10.68\* \*-4294/P1.61\* SECTION 216.** 77.51 (10s) of the statutes is  
10 created to read:

11 77.51 (10s) "Private communication service" means a telecommunications  
12 service that entitles the customer to exclusive or priority use of a communications  
13 channel or group of communications channels, regardless of the manner in which the  
14 communications channel or group of communications channels is connected, and  
15 includes switching capacity, extension lines, stations, and other associated services  
16 that are provided in connection with the use of such channel or channels.

17 **\*-0377/P10.69\* \*-4294/P1.62\* SECTION 217.** 77.51 (11d) of the statutes is  
18 created to read:

19 77.51 (11d) For purposes of subs. (1f), (3pf), and (9p) and ss. 77.52 (20) and (21),  
20 77.522, and 77.54 (51) and (52), "product" includes tangible personal property, and  
21 items, property, and goods under s. 77.52 (1) (b), (c), and (d), and services.

22 **\*-0377/P10.70\* \*-4294/P1.63\* SECTION 218.** 77.51 (11m) of the statutes is  
23 created to read:

24 77.51 (11m) "Prosthetic device" means a device, including the repair parts and  
25 replacement parts for the device, that is placed in or worn on the body to artificially

1 replace a missing portion of the body; to prevent or correct a physical deformity or  
2 malfunction; or to support a weak or deformed portion of the body.

3 **\*-0377/P10.71\* \*-4294/P1.64\* SECTION 219.** 77.51 (12) (a) of the statutes is  
4 repealed and recreated to read:

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

13 **\*-0377/P10.72\* \*-4294/P1.65\* SECTION 220.** 77.51 (12) (b) of the statutes is  
14 amended to read:

15 77.51 (12) (b) A transaction whereby the possession of property, or items,  
16 property, or goods under s. 77.52 (1) (b), (c), or (d) is transferred but the seller retains  
17 the title as security for the payment of the price.

18 **\*-0377/P10.73\* \*-4294/P1.66\* SECTION 221.** 77.51 (12m) of the statutes is  
19 created to read:

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

1           1. The seller's cost of the property or items, property, or goods under s. 77.52  
2 (1) (b), (c), or (d) sold.

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

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

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

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

19           5. Installation charges.

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

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

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

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

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

7 4. Delivery charges for direct mail, if the delivery charges for direct mail are  
8 separately stated on the invoice, bill of sale, or similar document that the seller gives  
9 to the purchaser.

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

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

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

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

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

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

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

12           3. The amount of the consideration that is attributable to the sale is a fixed  
13 amount and the seller is able to determine that amount at the time of the sale to the  
14 purchaser.

15           4. One of the following also applies:

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

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

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

1           \***-0377/P10.74\*** \***-4294/P1.67\*** SECTION 222. 77.51 (12p) of the statutes is  
2 created to read:

3           77.51 (12p) "Purchaser" means a person to whom a sale of tangible personal  
4 property is made or to whom a service is furnished.

5           \***-0377/P10.75\*** \***-4294/P1.68\*** SECTION 223. 77.51 (13) (a) of the statutes is  
6 amended to read:

7           77.51 (13) (a) Every seller who makes any sale, regardless of whether the sale  
8 is mercantile in nature, of tangible personal property, or items, property, or goods  
9 under s. 77.52 (1) (b), (c), or (d), or a service specified under s. 77.52 (2) (a).

10          \***-0377/P10.76\*** \***-4294/P1.69\*** SECTION 224. 77.51 (13) (b) of the statutes is  
11 amended to read:

12          77.51 (13) (b) Every person engaged in the business of making sales of tangible  
13 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) for  
14 storage, use or consumption or in the business of making sales at auction of tangible  
15 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) owned  
16 by the person or others for storage, use or other consumption.

17          \***-0377/P10.77\*** \***-4294/P1.70\*** SECTION 225. 77.51 (13) (c) of the statutes is  
18 amended to read:

19          77.51 (13) (c) When the department determines that it is necessary for the  
20 efficient administration of this subchapter to regard any salespersons,  
21 representatives, peddlers or canvassers as the agents of the dealers, distributors,  
22 supervisors or employers under whom they operate or from whom they obtain the  
23 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or  
24 (d) sold by them, irrespective of whether they are making the sales on their own  
25 behalf or on behalf of such dealers, distributors, supervisors or employers, the

1 department may so regard them and may regard the dealers, distributors,  
2 supervisors or employers as retailers for purposes of this subchapter.

3 **\*-0377/P10.78\* \*-4294/P1.71\* SECTION 226.** 77.51 (13) (d) of the statutes is  
4 amended to read:

5 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible  
6 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) to a  
7 person other than a seller as defined in sub. (17) provided such wholesaler is not  
8 expressly exempt from the sales tax on such sale or from collecting the use tax on such  
9 sale.

10 **\*-0377/P10.79\* \*-4294/P1.72\* SECTION 227.** 77.51 (13) (e) of the statutes is  
11 amended to read:

12 77.51 (13) (e) A person selling tangible personal property or items, property,  
13 or goods under s. 77.52 (1) (b), (c), or (d) to a service provider who transfers the  
14 property, items, or goods in conjunction with the selling, performing or furnishing of  
15 any service and the property is, items, or goods are incidental to the service, unless  
16 the service provider is selling, performing or furnishing services under s. 77.52 (2)  
17 (a) 7., 10., 11. and 20. This subsection does not apply to sub. (2).

18 **\*-0377/P10.80\* \*-4294/P1.73\* SECTION 228.** 77.51 (13) (f) of the statutes is  
19 amended to read:

20 77.51 (13) (f) A service provider who transfers tangible personal property or  
21 items, property, or goods under s. 77.52 (1) (b), (c), or (d) in conjunction with but not  
22 incidental to the selling, performing or furnishing of any service and a service  
23 provider selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11.  
24 and 20. This subsection does not apply to sub. (2).

1           **\*-0377/P10.81\* \*-4294/P1.74\* SECTION 229.** 77.51 (13) (k) of the statutes is  
2 amended to read:

3           77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals  
4 from a lease of tangible personal property or items, property, or goods under s. 77.52  
5 (1) (b), (c), or (d) situated in this state.

6           **\*-0377/P10.82\* \*-4294/P1.75\* SECTION 230.** 77.51 (13) (m) of the statutes is  
7 amended to read:

8           77.51 (13) (m) A person selling tangible personal property or items, property,  
9 or goods under s. 77.52 (1) (b), (c), or (d) to a veterinarian to be used or furnished by  
10 the veterinarian in the performance of services in some manner related to domestic  
11 animals, including pets or poultry.

12           **\*-0377/P10.83\* \*-4294/P1.76\* SECTION 231.** 77.51 (13) (n) of the statutes is  
13 amended to read:

14           77.51 (13) (n) A person selling household furniture, furnishings, equipment,  
15 appliances or other items of tangible personal property or items, property, or goods  
16 under s. 77.52 (1) (b), (c), or (d) to a landlord for use by tenants in leased or rented  
17 living quarters.

18           **\*-0377/P10.84\* \*-4294/P1.77\* SECTION 232.** 77.51 (13) (o) of the statutes is  
19 amended to read:

20           77.51 (13) (o) A person selling ~~medicine~~ drugs for animals to a veterinarian.  
21 As used in this paragraph, "animal" includes livestock, pets and poultry.

22           **\*-0377/P10.85\* \*-4294/P1.78\* SECTION 233.** 77.51 (13g) (intro.) of the  
23 statutes is amended to read:

1           77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in  
2 business in this state”, ~~unless otherwise limited by federal statute~~, for purposes of  
3 the use tax, means any of the following:

4           \*~~-0377/P10.86~~\* \*~~-4294/P1.78d~~\* SECTION 234. 77.51 (13g) (a) of the statutes  
5 is amended to read:

6           77.51 (13g) (a) Any retailer owning any real property in this state or leasing  
7 or renting out any tangible personal property, or items, property, or goods under s.  
8 77.52 (1) (b), (c), or (d), located in this state or maintaining, occupying or using,  
9 permanently or temporarily, directly or indirectly, or through a subsidiary, or agent,  
10 by whatever name called, an office, place of distribution, sales or sample room or  
11 place, warehouse or storage place or other place of business in this state.

12           \*~~-0377/P10.87~~\* \*~~-4294/P1.78e~~\* SECTION 235. 77.51 (13g) (b) of the statutes  
13 is amended to read:

14           77.51 (13g) (b) Any retailer having any representative, agent, salesperson,  
15 canvasser or solicitor operating in this state under the authority of the retailer or its  
16 subsidiary for the purpose of selling, delivering or the taking of orders for any  
17 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
18 (d), or taxable services.

19           \*~~-0377/P10.88~~\* \*~~-4294/P1.79~~\* SECTION 236. 77.51 (13g) (c) of the statutes is  
20 created to read:

21           77.51 (13g) (c) Any retailer selling tangible personal property, or items,  
22 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for storage, use,  
23 or other consumption in this state, unless otherwise limited by federal law.

24           \*~~-0377/P10.89~~\* \*~~-4294/P1.80~~\* SECTION 237. 77.51 (13r) of the statutes is  
25 amended to read:

1           77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall  
2 be deemed the consumer of the tangible personal property, or items, property, or  
3 goods under s. 77.52 (1) (b), (c), or (d), or services purchased.

4           \*~~-0377/P10.90~~\* \*~~-4294/P1.81~~\* SECTION 238. 77.51 (13rm) of the statutes is  
5 created to read:

6           77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental  
7 for any purpose other than resale, sublease, or subrent.

8           \*~~-0377/P10.91~~\* \*~~-4294/P1.82~~\* SECTION 239. 77.51 (13rn) of the statutes is  
9 created to read:

10          77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto  
11 a device and that may be used to alert the customer with regard to a communication.  
12 "Ringtones" includes MP3 or musical tones, polyphonic tones, and synthetic music  
13 mobile application format tones, but does not include ring-back tones.

14          \*~~-0377/P10.92~~\* \*~~-4294/P1.83~~\* SECTION 240. 77.51 (14) (intro.) of the statutes  
15 is amended to read:

16          77.51 (14) (intro.) "Sale", ~~"sale, lease or rental", "retail sale", "sale at retail", or~~  
17 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the  
18 ownership of, title to, possession of, or enjoyment of tangible personal property, or  
19 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services for use or  
20 consumption but not for resale as tangible personal property, or items, property, or  
21 goods under s. 77.52 (1) (b), (c), or (d), or services and includes:

22          \*~~-0377/P10.93~~\* \*~~-4294/P1.84~~\* SECTION 241. 77.51 (14) (a) of the statutes is  
23 amended to read:

24          77.51 (14) (a) Any sale at an auction in with respect to tangible personal  
25 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which is are sold

1 to a successful bidder. ~~The proceeds from, except the sale of tangible personal~~  
2 ~~property, items, or goods sold at auction which is are bid in by the seller and on which~~  
3 ~~title does not pass to a new purchaser shall be deducted from the gross proceeds of~~  
4 ~~the sale and the tax paid only on the net proceeds.~~

5 **\*-0377/P10.94\* \*-4294/P1.85\* SECTION 242.** 77.51 (14) (b) of the statutes is  
6 amended to read:

7 77.51 (14) (b) The furnishing or distributing of tangible personal property, or  
8 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for a  
9 consideration by social clubs and fraternal organizations to their members or others.

10 **\*-0377/P10.95\* \*-4294/P1.86\* SECTION 243.** 77.51 (14) (c) of the statutes is  
11 amended to read:

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

15 **\*-0377/P10.96\* \*-4294/P1.87\* SECTION 244.** 77.51 (14) (d) of the statutes is  
16 repealed.

17 **\*-0377/P10.97\* SECTION 245.** 77.51 (14) (g) of the statutes is renumbered  
18 77.51 (15a) (b) 4. and amended to read:

19 77.51 (15a) (b) 4. A sale of tangible personal property or items, property, or  
20 goods under s. 77.52 (1) (b), (c), or (d) to a contractor or subcontractor for use in the  
21 performance of contracts with the United States or its instrumentalities for the  
22 construction of improvements on or to real property.

23 **\*-0377/P10.98\* \*-4294/P1.89\* SECTION 246.** 77.51 (14) (h) of the statutes is  
24 amended to read:

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

5           **\*-0377/P10.99\* \*-4294/P1.90\* SECTION 247.** 77.51 (14) (i) of the statutes is  
6           repealed.

7           **\*-0377/P10.100\* \*-4294/P1.91\* SECTION 248.** 77.51 (14) (j) of the statutes is  
8           amended to read:

9           77.51 (14) (j) The granting of possession of tangible personal property or items,  
10           property, or goods under s. 77.52 (1) (b), (c), or (d) by a lessor to a lessee, or to another  
11           person at the direction of the lessee. Such a transaction is deemed a continuing sale  
12           in this state ~~by the lessor for the duration of the lease as respects any period of time~~  
13           ~~the leased property is situated in this state, irrespective of the time or place of~~  
14           ~~delivery of the property to the lessee or such other person.~~

15           **\*-0377/P10.101\* \*-4294/P1.92\* SECTION 249.** 77.51 (14) (k) of the statutes is  
16           repealed.

17           **\*-0377/P10.102\* \*-4294/P1.93\* SECTION 250.** 77.51 (14) (L) of the statutes is  
18           repealed.

19           **\*-0377/P10.103\* \*-4294/P1.94\* SECTION 251.** 77.51 (14g) (a) of the statutes  
20           is amended to read:

21           77.51 (14g) (a) The transfer of property or items, property, or goods under s.  
22           77.52 (1) (b), (c), or (d) to a corporation upon its organization solely in consideration  
23           for the issuance of its stock;

24           **\*-0377/P10.104\* \*-4294/P1.95\* SECTION 252.** 77.51 (14g) (b) of the statutes  
25           is amended to read:

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

4           **\*-0377/P10.105\* \*-4294/P1.96\* SECTION 253.** 77.51 (14g) (bm) of the statutes  
5 is amended to read:

6           77.51 (14g) (bm) The contribution of property or items, property, or goods under  
7 s. 77.52 (1) (b), (c), or (d) to a limited liability company upon its organization solely  
8 in consideration for a membership interest;

9           **\*-0377/P10.106\* \*-4294/P1.97\* SECTION 254.** 77.51 (14g) (c) of the statutes  
10 is amended to read:

11           77.51 (14g) (c) The transfer of property or items, property, or goods under s.  
12 77.52 (1) (b), (c), or (d) to a corporation, solely in consideration for the issuance of its  
13 stock, pursuant to a merger or consolidation;

14           **\*-0377/P10.107\* \*-4294/P1.98\* SECTION 255.** 77.51 (14g) (cm) of the statutes  
15 is amended to read:

16           77.51 (14g) (cm) The transfer of property or items, property, or goods under s.  
17 77.52 (1) (b), (c), or (d) to a limited liability company, solely in consideration for a  
18 membership interest, pursuant to a merger;

19           **\*-0377/P10.108\* \*-4294/P1.99\* SECTION 256.** 77.51 (14g) (d) of the statutes  
20 is amended to read:

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

24           **\*-0377/P10.109\* \*-4294/P1.100\* SECTION 257.** 77.51 (14g) (e) of the statutes  
25 is amended to read:

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

4           \***-0377/P10.110\*** \***-4294/P1.101\*** SECTION 258. 77.51 (14g) (em) of the  
5 statutes is amended to read:

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

9           \***-0377/P10.111\*** \***-4294/P1.102\*** SECTION 259. 77.51 (14g) (f) of the statutes  
10 is amended to read:

11           77.51 (14g) (f) Repossession of property or items, property, or goods under s.  
12 77.52 (1) (b), (c), or (d) by the seller from the purchaser when the only consideration  
13 is cancellation of the purchaser's obligation to pay the remaining balance of the  
14 purchase price;

15           \***-0377/P10.112\*** \***-4294/P1.103\*** SECTION 260. 77.51 (14g) (g) of the statutes  
16 is amended to read:

17           77.51 (14g) (g) The transfer of property or items, property, or goods under s.  
18 77.52 (1) (b), (c), or (d) in a reorganization as defined in section 368 of the internal  
19 revenue code in which no gain or loss is recognized for franchise or income tax  
20 purposes; or

21           \***-0377/P10.113\*** \***-4294/P1.104\*** SECTION 261. 77.51 (14g) (h) of the statutes  
22 is amended to read:

23           77.51 (14g) (h) Any transfer of all or substantially all the property or items,  
24 property, or goods under s. 77.52 (1) (b), (c), or (d) held or used by a person in the  
25 course of an activity requiring the holding of a seller's permit, if after the transfer

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

7 **\*-0377/P10.114\* \*-4294/P1.105\* SECTION 262.** 77.51 (14r) of the statutes is  
8 repealed.

9 **\*-0377/P10.115\* \*-4294/P1.106\* SECTION 263.** 77.51 (15) of the statutes is  
10 repealed.

11 **\*-0377/P10.116\* \*-4294/P1.107\* SECTION 264.** 77.51 (15a) of the statutes is  
12 created to read:

13 77.51 (15a) (a) “Sales, lease, or rental for resale, sublease, or subrent” includes  
14 transfers of tangible personal property or items, property, or goods under s. 77.52 (1)  
15 (b), (c), or (d) to a service provider that the service provider transfers in conjunction  
16 with but not incidental to the selling, performing, or furnishing of any service, and  
17 transfers of tangible personal property or items, property, or goods under s. 77.52 (1)  
18 (b), (c), or (d) to a service provider that the service provider physically transfers in  
19 conjunction with the selling, performing, or furnishing services under s. 77.52 (2) (a)  
20 7., 10., 11., or 20. This paragraph does not apply to sub. (2).

21 (b) “Sales, lease, or rental for resale, sublease, or subrent” does not include any  
22 of the following:

23 1. The sale of building materials, supplies, and equipment to owners,  
24 contractors, subcontractors, or builders for use in real property construction

1 activities or the alteration, repair, or improvement of real property, regardless of the  
2 quantity of such materials, supplies, and equipment sold.

3 2. Any sale of tangible personal property or items, property, or goods under s.  
4 77.52 (1) (b), (c), or (d) to a purchaser even though such property, items, or goods may  
5 be used or consumed by some other person to whom such purchaser transfers the  
6 property, items, or goods without valuable consideration, such as gifts, and  
7 advertising specialties distributed at no charge and apart from the sale of other  
8 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
9 (d) or service.

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

16 **\*-0377/P10.117\* \*-4294/P1.108\* SECTION 265.** 77.51 (15b) of the statutes is  
17 created to read:

18 77.51 (15b) (a) "Sales price" means the total amount of consideration, including  
19 cash, credit, property, and services, for which tangible personal property, or items,  
20 property, or goods under s. 77.52 (1) (b), (c), or (d) or services are sold, licensed, leased,  
21 or rented, valued in money, whether received in money or otherwise, without any  
22 deduction for the following:

23 1. The seller's cost of the property or items, property, or goods under s. 77.52  
24 (1) (b), (c), or (d) sold.

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

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

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

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

15           5. Installation charges.

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

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

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

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

4           4. Delivery charges for direct mail, if the delivery charges for direct mail are  
5 separately stated on the invoice, bill of sale, or similar document that the seller gives  
6 to the purchaser.

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

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

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

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

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

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

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

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

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

12 4. One of the following also applies:

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

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

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

23 \*-0377/P10.118\* \*-4294/P1.109\* SECTION 266. 77.51 (17) (intro.) of the  
24 statutes is amended to read:

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

7           \***-0377/P10.119\*** \***-4294/P1.110\*** SECTION 267. 77.51 (17m) of the statutes is  
8           repealed and recreated to read:

9           77.51 (17m) "Service address" means any of the following:

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

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

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

22           \***-0377/P10.120\*** \***-4294/P1.111\*** SECTION 268. 77.51 (17w) of the statutes is  
23           created to read:

24           77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent  
25           of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not

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

3 **\*-0377/P10.121\* SECTION 269.** 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 **\*-0377/P10.122\* \*-4294/P1.112\* SECTION 270.** 77.51 (18) of the statutes is  
10 amended to read:

11 77.51 (18) "Storage" includes any keeping or retention in this state of tangible  
12 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d)  
13 purchased from a retailer for any purpose except sale in the regular course of  
14 business.

15 **\*-0377/P10.123\* SECTION 271.** 77.51 (20) of the statutes is amended to read:

16 77.51 (20) "Tangible personal property" means all tangible personal property  
17 of every kind and description and includes electricity, natural gas, steam and water  
18 and also leased property affixed to realty if the lessor has the right to remove the  
19 property upon breach or termination of the lease agreement, unless the lessor of the  
20 property is also the lessor of the realty to which the property is affixed. "Tangible  
21 personal property" also includes coins and stamps of the United States sold or traded  
22 as collectors' items above their face value and ~~computer programs except custom~~  
23 computer programs prewritten computer software, regardless of how it is delivered  
24 to the purchaser.

1           **\*-0377/P10.124\* SECTION 272.** 77.51 (20) of the statutes, as affected by 2009  
2   Wisconsin Act .... (this act), is repealed and recreated to read:

3           77.51 (20) "Tangible personal property" means personal property that can be  
4   seen, weighed, measured, felt, or touched, or that is in any other manner perceptible  
5   to the senses, and includes electricity, gas, steam, water, and prewritten computer  
6   software.

7           **\*-0377/P10.125\* \*-4294/P1.114\* SECTION 273.** 77.51 (21) of the statutes is  
8   amended to read:

9           77.51 (21) "Taxpayer" means the person who is required to pay, collect, or  
10   account for or who is otherwise directly interested in the taxes imposed by this  
11   subchapter, including a certified service provider.

12           **\*-0377/P10.126\* SECTION 274.** 77.51 (21m) of the statutes is amended to read:

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

23           **\*-0377/P10.127\* SECTION 275.** 77.51 (21m) of the statutes, as affected by 2009  
24   Wisconsin Act .... (this act), is renumbered 77.51 (5f) and amended to read:

1           77.51 (5f) ~~“Telecommunications and Internet access services”~~ means sending  
2 messages and information transmitted through the use of local, toll and wide-area  
3 telephone service; channel services; telegraph services; teletypewriter; computer  
4 exchange services; cellular mobile telecommunications service; specialized mobile  
5 radio; stationary two-way radio; paging service; or any other form of mobile and  
6 portable one-way or two-way communications; or any other transmission of  
7 messages or information by electronic or similar means between or among points by  
8 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.  
9 ~~“Telecommunications and Internet access services”~~ does not include sending collect  
10 ~~telecommunications that are received outside of the state~~ telecommunications  
11 services to the extent that such services are taxable under s. 77.52 (2) (a) 5. am.

12           \***-0377/P10.128\*** \***-4294/P1.115\*** **SECTION 276.** 77.51 (21n) of the statutes is  
13 created to read:

14           77.51 (21n) “Telecommunications services” means electronically transmitting,  
15 conveying, or routing voice, data, audio, video, or other information or signals to a  
16 point or between or among points. “Telecommunications services” includes the  
17 transmission, conveyance, or routing of such information or signals in which  
18 computer processing applications are used to act on the content’s form, code, or  
19 protocol for transmission, conveyance, or routing purposes, regardless of whether  
20 the service is referred to as a voice over Internet protocol service or classified by the  
21 federal communications commission as an enhanced or value-added nonvoice data  
22 service. “Telecommunications services” does not include any of the following:

23           (a) Data processing and information services that allow data to be generated,  
24 acquired, stored, processed, or retrieved and delivered to a purchaser by an electronic

1 transmission, if the purchaser's primary purpose for the underlying transaction is  
2 the processed data.

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

4 (c) Tangible personal property.

5 (d) Advertising, including directory advertising.

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

7 (f) Internet access services.

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

13 (h) Ancillary services.

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

16 **\*-0377/P10.129\* \*-4294/P1.116\* SECTION 277.** 77.51 (21p) of the statutes is  
17 created to read:

18 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,  
19 and any other item that contains tobacco.

20 **\*-0377/P10.130\* \*-4294/P1.117\* SECTION 278.** 77.51 (21q) of the statutes is  
21 created to read:

22 77.51 (21q) "Transferred electronically" means accessed or obtained by the  
23 purchaser by means other than tangible storage media.

24 **\*-0377/P10.131\* \*-4294/P1.118\* SECTION 279.** 77.51 (22) (a) of the statutes  
25 is amended to read:

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

9           **\*-0377/P10.132\* \*-4294/P1.119\* SECTION 280.** 77.51 (22) (b) of the statutes  
10          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 or items, property, or goods under s. 77.52 (1) (b),  
13          (c), or (d), whether or not the purchaser has possession of the property, items, or  
14          goods. "Enjoyment" also includes, but is not limited to, having shipped into this state  
15          by an out-of-state supplier printed material which is designed to promote the sale  
16          of property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services,  
17          or which is otherwise related to the business activities, of the purchaser of the  
18          printed material or printing service.

19          **\*-0377/P10.133\* \*-4294/P1.120\* SECTION 281.** 77.51 (22) (bm) of the statutes  
20          is created to read:

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

1 (d), or taxable services, regardless of whether the purchaser of such property, items,  
2 goods, or services owns or physically possesses, in this state, the property, items,  
3 goods, or services.

4 \*-0377/P10.134\* \*-4294/P1.121\* SECTION 282. 77.51 (24) of the statutes is  
5 created to read:

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

10 \*-0377/P10.135\* \*-4294/P1.122\* SECTION 283. 77.51 (25) of the statutes is  
11 created to read:

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

16 \*-0377/P10.136\* \*-4294/P1.123\* SECTION 284. 77.51 (26) of the statutes is  
17 created to read:

18 77.51 (26) "Voice mail service" means an ancillary service that allows a  
19 customer to store, send, or receive recorded messages, not including any vertical  
20 service that the customer must have to use the voice mail service.

21 \*-0377/P10.137\* \*-4294/P1.124\* SECTION 285. 77.52 (1) of the statutes is  
22 renumbered 77.52 (1) (a) and amended to read:

23 77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible  
24 personal property, including accessories, components, attachments, parts, supplies  
25 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the

1 ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal  
2 property, including accessories, components, attachments, parts, supplies and  
3 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

4 **\*-0377/P10.138\* \*-4294/P1.125\* SECTION 286.** 77.52 (1) (b) of the statutes is  
5 created to read:

6 77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United  
7 States that are sold or traded as collectors' items above their face value, a tax is  
8 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such  
9 coins and stamps.

10 **\*-0377/P10.139\* \*-4294/P1.126\* SECTION 287.** 77.52 (1) (c) of the statutes is  
11 created to read:

12 77.52 (1) (c) For the privilege of leasing property that is affixed to real property,  
13 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease  
14 of such property, if the lessor has the right to remove the leased property upon breach  
15 or termination of the lease agreement, unless the lessor of the leased property is also  
16 the lessor of the real property to which the leased property is affixed.

17 **\*-0377/P10.140\* SECTION 288.** 77.52 (1) (d) of the statutes is created to read:

18 77.52 (1) (d) A tax is imposed on all retailers at the rate of 5 percent of the sales  
19 price from the sale, lease, license, or rental of specified digital goods and additional  
20 digital goods at retail for the right to use the specified digital goods or additional  
21 digital goods on a permanent or less than permanent basis and regardless of whether  
22 the purchaser is required to make continued payments for such right.

23 **\*-0377/P10.141\* \*-4294/P1.127\* SECTION 289.** 77.52 (1b) of the statutes is  
24 repealed and recreated to read:

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

5           \*-0377/P10.142\* \*-4294/P1.128\* SECTION 290. 77.52 (2) (intro.) of the  
6 statutes is amended to read:

7           77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing  
8 the services described under par. (a) at retail in this state, as determined under s.  
9 77.522, to consumers or users, regardless of whether the consumer or user has the  
10 right of permanent use or less than the right of permanent use and regardless of  
11 whether the service is conditioned on continued payment from the purchaser, a tax  
12 is imposed upon all persons selling, licensing, performing or furnishing the services  
13 at the rate of 5% of the gross receipts sales price from the sale, license, performance  
14 or furnishing of the services.

15           \*-0377/P10.143\* \*-4294/P1.129d\* SECTION 291. 77.52 (2) (a) 5. a. of the  
16 statutes is amended to read:

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

1           **\*-0377/P10.144\* SECTION 292.** 77.52 (2) (a) 5. a. of the statutes, as affected by  
2 2009 Wisconsin Act .... (this act), is amended to read:

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

12           **\*-0377/P10.145\* \*-4294/P1.130\* SECTION 293.** 77.52 (2) (a) 5. am. of the  
13 statutes is created to read:

14           77.52 (2) (a) 5. am. The sale of intrastate, interstate, and international  
15 telecommunications services, except interstate 800 services.

16           **\*-0377/P10.146\* \*-4294/P1.131\* SECTION 294.** 77.52 (2) (a) 5. b. of the  
17 statutes is repealed.

18           **\*-0377/P10.147\* \*-4294/P1.132\* SECTION 295.** 77.52 (2) (a) 5. c. of the  
19 statutes is created to read:

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

22           **\*-0377/P10.148\* \*-4294/P1.133\* SECTION 296.** 77.52 (2) (a) 5m. of the  
23 statutes is amended to read:

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

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

6 \*~~0377/P10.149~~\* \*~~4294/P1.134~~\* SECTION 297. 77.52 (2) (a) 10. of the statutes  
7 is amended to read:

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

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

5 **\*-0377/P10.150\* \*-4294/P1.135m\* SECTION 298.** 77.52 (2) (a) 11. of the  
6 statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

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

14 **\*-0377/P10.151\* \*-4294/P1.135\* SECTION 299.** 77.52 (2) (a) 13m. of the  
15 statutes is created to read:

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

1           **\*-0377/P10.152\* \*-4294/P1.136\* SECTION 300.** 77.52 (2m) (a) of the statutes  
2 is amended to read:

3           **77.52 (2m)** (a) With respect to the services subject to tax under sub. (2), no part  
4 of the charge for the service may be deemed a sale or rental of tangible personal  
5 property or items, property, or goods under sub. (1) (b), (c), or (d) if the property, items,  
6 or goods transferred by the service provider is are incidental to the selling,  
7 performing or furnishing of the service, except as provided in par. (b).

8           **\*-0377/P10.153\* \*-4294/P1.137\* SECTION 301.** 77.52 (2m) (b) of the statutes  
9 is amended to read:

10           **77.52 (2m)** (b) With respect to the services subject to tax under sub. (2) (a) 7.,  
11 10., 11. and 20., all property or items, property, or goods under s. 77.52 (1) (b), (c), or  
12 (d) physically transferred, or transferred electronically, to the customer in  
13 conjunction with the selling, performing or furnishing of the service is a sale of  
14 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or  
15 (d) separate from the selling, performing or furnishing of the service.

16           **\*-0377/P10.154\* \*-4294/P1.138\* SECTION 302.** 77.52 (2n) of the statutes is  
17 repealed and recreated to read:

18           **77.52 (2n)** The selling, licensing, performing, or furnishing of the services  
19 described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is  
20 subject to the tax imposed under sub. (2) unless an exemption in this subchapter  
21 applies.

22           **\*-0377/P10.155\* \*-4294/P1.139\* SECTION 303.** 77.52 (3m) of the statutes is  
23 repealed.

24           **\*-0377/P10.156\* \*-4294/P1.140\* SECTION 304.** 77.52 (3n) of the statutes is  
25 repealed.

1           **\*-0377/P10.157\* \*-4294/P1.141\* SECTION 305.** 77.52 (4) of the statutes is  
2 amended to read:

3           77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the  
4 public or to any customer, directly or indirectly, that the tax or any part thereof will  
5 be assumed or absorbed by the retailer or that it will not be added to the selling price  
6 of the property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) sold or that  
7 if added it, or any part thereof, will be refunded. Any person who violates this  
8 subsection is guilty of a misdemeanor.

9           **\*-0377/P10.158\* \*-4294/P1.142\* SECTION 306.** 77.52 (6) of the statutes is  
10 repealed.

11           **\*-0377/P10.159\* \*-4294/P1.143\* SECTION 307.** 77.52 (7) of the statutes is  
12 amended to read:

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

1 eligible later for the exemption under s. 77.54 (7m) except for its possession of a  
2 seller's permit, it may surrender that permit.

3 **\*-0377/P10.160\* \*-4294/P1.144\* SECTION 308.** 77.52 (7b) of the statutes is  
4 created to read:

5 77.52 (7b) Any person who may register under sub. (7) may designate an agent,  
6 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the  
7 manner prescribed by the department.

8 **\*-0377/P10.161\* \*-4294/P1.145\* SECTION 309.** 77.52 (12) of the statutes is  
9 amended to read:

10 77.52 (12) A person who operates as a seller in this state without a permit or  
11 after a permit has been suspended or revoked or has expired, unless the person has  
12 a temporary permit under sub. (11), and each officer of any corporation, partnership  
13 member, limited liability company member, or other person authorized to act on  
14 behalf of a seller who so operates, is guilty of a misdemeanor. Permits shall be held  
15 only by persons actively operating as sellers of tangible personal property, or items,  
16 property, or goods under sub. (1) (b), (c), or (d), or taxable services. Any person not  
17 so operating shall forthwith surrender that person's permit to the department for  
18 cancellation. The department may revoke the permit of a person found not to be  
19 actively operating as a seller of tangible personal property, or items, property, or  
20 goods under sub. (1) (b), (c), or (d), or taxable services.

21 **\*-0377/P10.162\* \*-4294/P1.146\* SECTION 310.** 77.52 (13) of the statutes is  
22 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

## SECTION 310

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

15 ~~\*-0377/P10.163\* \*-4294/P1.147\*~~ SECTION 311. 77.52 (14) (a) (intro.) and 1.  
16 and (b) of the statutes are consolidated, renumbered 77.52 (14) (a) and amended to  
17 read:

18 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller ~~from the~~  
19 ~~burden of proof of the tax otherwise applicable~~ only if any of the following is true:  
20 1. ~~The certificate is taken in good faith~~ the seller obtains a fully completed exemption  
21 certificate, or the information required to prove the exemption, from a person who  
22 is engaged as a seller of tangible personal property or taxable services and who holds  
23 the permit provided for in sub. (9) and who, at the time of purchasing purchaser no  
24 later than 90 days after the date of the sale of the tangible personal property, or items,  
25 property, or goods under sub. (1) (b), (c), or (d), or services, intends to sell it in the

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

16 **\*-0377/P10.164\* \*-4294/P1.148\* SECTION 312.** 77.52 (14) (a) 2. of the statutes  
17 is repealed.

18 **\*-0377/P10.165\* \*-4294/P1.149\* SECTION 313.** 77.52 (14) (am) of the statutes  
19 is created to read:

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

1           **\*-0377/P10.166\* SECTION 314.** 77.52 (14) (bm) of the statutes is created to  
2 read:

3           **77.52 (14)** (bm) A certified service provider is relieved from liability for the tax  
4 otherwise applicable to the same extent as the seller, who is the certified service  
5 provider's client, is relieved from liability for the tax otherwise applicable under par.  
6 (a) or (am).

7           **\*-0377/P10.167\* \*-4294/P1.150\* SECTION 315.** 77.52 (15) of the statutes is  
8 amended to read:

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

22           **\*-0377/P10.168\* \*-4294/P1.151\* SECTION 316.** 77.52 (16) of the statutes is  
23 amended to read:

24           **77.52 (16)** Any person who gives a resale certificate for property, or items,  
25 property, or goods under sub. (1) (b), (c), or (d), or services which that person knows

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

8 \***-0377/P10.169\*** \***-4294/P1.152d\*** SECTION 317. 77.52 (17m) (b) 6. of the  
9 statutes is amended to read:

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

14 \***-0377/P10.170\*** \***-4294/P1.152\*** SECTION 318. 77.52 (19) of the statutes is  
15 amended to read:

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

1           **\*-0377/P10.171\* \*-4294/P1.153\* SECTION 319.** 77.52 (20) of the statutes is  
2 created to read:

3           **77.52 (20) (a)** Except as provided in par. (b), the entire sales price of a bundled  
4 transaction is subject to the tax imposed under this subchapter.

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

13           **\*-0377/P10.172\* \*-4294/P1.154\* SECTION 320.** 77.52 (21) of the statutes is  
14 created to read:

15           **77.52 (21)** A person who provides a product that is not a distinct and  
16 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)  
17 (b), is the consumer of that product and shall pay the tax imposed under this  
18 subchapter on the purchase price of that product.

19           **\*-0377/P10.173\* \*-4294/P1.155\* SECTION 321.** 77.52 (22) of the statutes is  
20 created to read:

21           **77.52 (22)** With regard to transactions described in s. 77.51 (1f) (b), the service  
22 provider is the consumer of the tangible personal property or items, property, or  
23 goods under sub. (1) (b), (c), or (d) and shall pay the tax imposed under this  
24 subchapter on the purchase price of the property, items, or goods.

1           \***-0377/P10.174\*** \***-4294/P1.156\*** **SECTION 322.** 77.52 (23) of the statutes is  
2 created to read:

3           **77.52 (23)** With regard to transactions described in s. 77.51 (1f) (c), the service  
4 provider is the consumer of the service that is essential to the use or receipt of the  
5 other service and shall pay the tax imposed under this subchapter on the purchase  
6 price of the service that is essential to the use or receipt of the other service.

7           \***-0377/P10.175\*** \***-4294/P1.157\*** **SECTION 323.** 77.522 of the statutes is  
8 created to read:

9           **77.522 Sourcing. (1) GENERAL.** (a) In this section:

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

16           2. "Transportation equipment" means any of the following:

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

19           b. Trucks and truck tractors that have a gross vehicle weight rating of 10,001  
20 pounds or greater, trailers, semitrailers, and passenger buses, if such vehicles are  
21 registered under the international registration plan under s. 341.405 and operated  
22 under the authority of a carrier that is authorized by the federal government to carry  
23 persons or property in interstate commerce.

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

4           d. Containers that are designed for use on the vehicles described in subd. 2. a.  
5 to c. and component parts attached to or secured on such vehicles.

6           (b) Except as provided in par. (c) and subs. (2), (3), (4), and (5), the location of  
7 a sale is determined as follows:

8           1. If a purchaser receives the product at a seller's business location, the sale  
9 is sourced to that business location.

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

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

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

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

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

4           b. If the item sold is computer software delivered electronically, the sale is  
5 sourced to the location from which the computer software was first available for  
6 transmission by the seller, not including any location that merely provided the  
7 digital transfer of the product sold.

8           c. If a service is sold, the sale is sourced to the location from which the service  
9 was provided.

10           (c) The sale of direct mail is sourced to the location from which the direct mail  
11 is shipped, if the purchaser does not provide to the seller a direct pay permit, an  
12 exemption certificate claiming direct mail, or other information that indicates the  
13 appropriate taxing jurisdiction to which the direct mail is delivered to the ultimate  
14 recipients. If the purchaser provides an exemption certificate claiming direct mail  
15 or direct pay permit to the seller, the purchaser shall pay or remit, as appropriate,  
16 to the department the tax imposed under s. 77.53 on all purchases for which the tax  
17 is due and the seller is relieved from liability for collecting such tax. If the purchaser  
18 provides delivery information indicating the jurisdictions to which the direct mail is  
19 delivered to the recipients, the seller shall collect the tax according to the delivery  
20 information provided by the purchaser and, in the absence of bad faith, the seller  
21 shall be relieved of any further obligation to collect tax on any transaction for which  
22 the seller has collected tax pursuant to the delivery information provided by the  
23 purchaser. An exemption certificate claiming direct mail provided to a seller under  
24 this paragraph shall remain effective for all sales by the seller who received the  
25 exemption certificate to the purchaser who provided the exemption certificate,

1 unless the purchaser revokes the exemption certificate in writing and provides such  
2 revocation to the seller.

3 (2) DIGITAL GOODS. (a) The location of a sale of a digital good under s. 77.52 (1)  
4 (d) is determined as follows:

5 1. If a purchaser receives the digital good at a seller's business location, the  
6 sale is sourced to that business location.

7 2. If a purchaser does not receive the digital good at a seller's business location,  
8 the sale is sourced to the location where the purchaser, or the purchaser's designated  
9 donee, receives the digital good, including the location indicated by the instructions  
10 known to the seller for delivery to the purchaser or the purchaser's designated donee.

11 3. If the location of a sale of the digital good cannot be determined under subd.  
12 1. or 2., the sale is sourced to the purchaser's address as indicated by the seller's  
13 business records, if the records are maintained in the ordinary course of the seller's  
14 business and if using that address to establish the location of the sale is not in bad  
15 faith.

16 4. If the location of a sale of the digital good cannot be determined under subd.  
17 1., 2., or 3., the sale is sourced to the purchaser's address as obtained during the  
18 consummation of the sale, including the address indicated on the purchaser's  
19 payment instrument, if no other address is available and if using that address is not  
20 in bad faith.

21 5. If the location of a sale of the digital good cannot be determined under subd.  
22 1., 2., 3., or 4., including the circumstance in which the seller has insufficient  
23 information to determine the location under subd. 1., 2., 3., or 4., the sale is sourced  
24 to the location from which the digital good was first available for transmission by the

1 seller, not including any location from which the digital good was merely transferred  
2 electronically.

3 (b) The location of a license of a digital good under s. 77.52 (1) (d) is determined  
4 as follows:

5 1. With regard to the first or only payment on the license of the digital good,  
6 the license is sourced to the location determined under par. (a).

7 2. If the digital good is moved from the place where the digital good was initially  
8 delivered, the subsequent periodic payments on the license are sourced to the digital  
9 good's primary location as indicated by an address for the digital good that is  
10 provided by the licensee and that is available to the licensor in records that the  
11 licensor maintains in the ordinary course of the licensor's business, if the use of such  
12 an address does not constitute bad faith. The location of a license as determined  
13 under this paragraph shall not be altered by any intermittent use of the digital good  
14 at different locations.

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

1 determined under this paragraph shall not be altered by any intermittent use of the  
2 property, item, or good at different locations.

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

13 (c) The lease or rental of transportation equipment is sourced to the location  
14 determined under sub. (1) (b).

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

18 (4) TELECOMMUNICATIONS. (a) In this subsection:

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

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

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

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

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

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

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

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

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

22           10. "Postpaid calling service" means a telecommunications service that is  
23 obtained by paying for it on a call-by-call basis using a bankcard, travel card, credit  
24 card, debit card, or similar method, or by charging it to a telephone number that is  
25 not associated with the location where the telecommunications service originates or

1 terminates. "Postpaid calling service" includes a telecommunications service, not  
2 including a prepaid wireless calling service, that would otherwise be a prepaid  
3 calling service except that the service provided to the customer is not exclusively a  
4 telecommunications service.

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

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

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

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

17 (c) Except as provided in pars. (d) to (j), the sale of a telecommunications service  
18 that is sold on a basis other than a call-by-call basis is sourced to the customer's  
19 place of primary use.

20 (d) The sale of a mobile telecommunications service, except an air-to-ground  
21 radiotelephone service and a prepaid calling service, is sourced to the customer's  
22 place of primary use.

23 (e) The sale of a postpaid calling service is sourced to the location where the  
24 signal of the telecommunications service originates, as first identified by the seller's  
25 telecommunications system or, if the signal is not transmitted by the seller's