

1 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) owned  
2 by the person or others for storage, use or other consumption.

3 **\*-0377/P10.77\* \*-4294/P1.70\* SECTION 284.** 77.51 (13) (c) of the statutes is  
4 amended to read:

5 77.51 (13) (c) When the department determines that it is necessary for the  
6 efficient administration of this subchapter to regard any salespersons,  
7 representatives, peddlers or canvassers as the agents of the dealers, distributors,  
8 supervisors or employers under whom they operate or from whom they obtain the  
9 tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or  
10 (d) sold by them, irrespective of whether they are making the sales on their own  
11 behalf or on behalf of such dealers, distributors, supervisors or employers, the  
12 department may so regard them and may regard the dealers, distributors,  
13 supervisors or employers as retailers for purposes of this subchapter.

14 **\*-0377/P10.78\* \*-4294/P1.71\* SECTION 285.** 77.51 (13) (d) of the statutes is  
15 amended to read:

16 77.51 (13) (d) Every wholesaler to the extent that the wholesaler sells tangible  
17 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) to a  
18 person other than a seller as defined in sub. (17) provided such wholesaler is not  
19 expressly exempt from the sales tax on such sale or from collecting the use tax on such  
20 sale.

21 **\*-0377/P10.79\* \*-4294/P1.72\* SECTION 286.** 77.51 (13) (e) of the statutes is  
22 amended to read:

23 77.51 (13) (e) A person selling tangible personal property or items, property,  
24 or goods under s. 77.52 (1) (b), (c), or (d) to a service provider who transfers the  
25 property, items, or goods in conjunction with the selling, performing or furnishing of

1 any service and the property is, items, or goods are incidental to the service, unless  
2 the service provider is selling, performing or furnishing services under s. 77.52 (2)  
3 (a) 7., 10., 11. and 20. This subsection does not apply to sub. (2).

4 **\*-0377/P10.80\* \*-4294/P1.73\* SECTION 287.** 77.51 (13) (f) of the statutes is  
5 amended to read:

6 77.51 (13) (f) A service provider who transfers tangible personal property or  
7 items, property, or goods under s. 77.52 (1) (b), (c), or (d) in conjunction with but not  
8 incidental to the selling, performing or furnishing of any service and a service  
9 provider selling, performing or furnishing services under s. 77.52 (2) (a) 7., 10., 11.  
10 and 20. This subsection does not apply to sub. (2).

11 **SECTION 288.** 77.51 (13) (i) of the statutes is amended to read:

12 **77.51 (13) (i)** A person selling items, property, or goods under s. 77.52 (1) (b),  
13 (c), or (d), materials, or supplies to barbers, beauty shop operators, or bootblacks for  
14 use by them in the performance of their services.

15 **SECTION 289.** 77.51 (13) (j) of the statutes is amended to read:

16 **77.51 (13) (j)** A person selling items, property, and goods under s. 77.52 (1) (b),  
17 (c), and (d), materials, and supplies to producers of X-ray films.

18 **\*-0377/P10.81\* \*-4294/P1.74\* SECTION 290.** 77.51 (13) (k) of the statutes is  
19 amended to read:

20 77.51 (13) (k) ~~As respects~~ With respect to a lease, any person deriving rentals  
21 from a lease of tangible personal property or items, property, or goods under s. 77.52  
22 (1) (b), (c), or (d) situated in this state.

23 **\*-0377/P10.82\* \*-4294/P1.75\* SECTION 291.** 77.51 (13) (m) of the statutes is  
24 amended to read:

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

5           **\*-0377/P10.83\* \*-4294/P1.76\* SECTION 292.** 77.51 (13) (n) of the statutes is  
6 amended to read:

7           77.51 (13) (n) A person selling household furniture, furnishings, equipment,  
8 appliances or other items of tangible personal property or items, property, or goods  
9 under s. 77.52 (1) (b), (c), or (d) to a landlord for use by tenants in leased or rented  
10 living quarters.

11           **\*-0377/P10.84\* \*-4294/P1.77\* SECTION 293.** 77.51 (13) (o) of the statutes is  
12 amended to read:

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

15           **\*-0377/P10.85\* \*-4294/P1.78\* SECTION 294.** 77.51 (13g) (intro.) of the  
16 statutes is amended to read:

17           77.51 (13g) (intro.) Except as provided in sub. (13h), "retailer engaged in  
18 business in this state", ~~unless otherwise limited by federal statute,~~ for purposes of  
19 the use tax, means any of the following:

20           **\*-0377/P10.86\* \*-4294/P1.78d\* SECTION 295.** 77.51 (13g) (a) of the statutes  
21 is amended to read:

22           77.51 (13g) (a) Any retailer owning any real property in this state or leasing  
23 or renting out any tangible personal property, or items, property, or goods under s.  
24 77.52 (1) (b), (c), or (d), located in this state or maintaining, occupying or using,  
25 permanently or temporarily, directly or indirectly, or through a subsidiary, or agent,

1 by whatever name called, an office, place of distribution, sales or sample room or  
2 place, warehouse or storage place or other place of business in this state.

3 \*-0377/P10.87\* \*-4294/P1.78e\* SECTION 296. 77.51 (13g) (b) of the statutes  
4 is amended to read:

5 77.51 (13g) (b) Any retailer having any representative, agent, salesperson,  
6 canvasser or solicitor operating in this state under the authority of the retailer or its  
7 subsidiary for the purpose of selling, delivering or the taking of orders for any  
8 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
9 (d), or taxable services.

10 \*-0377/P10.88\* \*-4294/P1.79\* SECTION 297. 77.51 (13g) (c) of the statutes is  
11 created to read:

12 77.51 (13g) (c) Any retailer selling tangible personal property, or items,  
13 property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for storage, use,  
14 or other consumption in this state, unless otherwise limited by federal law.

15 \*-0377/P10.89\* \*-4294/P1.80\* SECTION 298. 77.51 (13r) of the statutes is  
16 amended to read:

17 77.51 (13r) Any person purchasing from a retailer as defined in sub. (13) shall  
18 be deemed the consumer of the tangible personal property, or items, property, or  
19 goods under s. 77.52 (1) (b), (c), or (d), or services purchased.

20 \*-0377/P10.90\* \*-4294/P1.81\* SECTION 299. 77.51 (13rm) of the statutes is  
21 created to read:

22 77.51 (13rm) "Retail sale" or "sale at retail" means any sale, lease, or rental  
23 for any purpose other than resale, sublease, or subrent.

24 \*-0377/P10.91\* \*-4294/P1.82\* SECTION 300. 77.51 (13rn) of the statutes is  
25 created to read:

1           77.51 (13rn) "Ringtones" means digitized sound files that are downloaded onto  
2 a device and that may be used to alert the customer regarding a communication, but  
3 not including ringback tones or other digital audio files that are not stored on the  
4 purchaser's communication device.

5           \*~~-0377/P10.92~~\* \*~~-4294/P1.83~~\* SECTION 301. 77.51 (14) (intro.) of the statutes  
6 is amended to read:

7           77.51 (14) (intro.) "~~Sale~~", "~~sale, lease or rental~~", "~~retail sale~~", "~~sale at retail~~", or  
8 ~~equivalent terms include~~ includes any ~~one or all~~ of the following: the transfer of the  
9 ownership of, title to, possession of, or enjoyment of tangible personal property, or  
10 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services for use or  
11 consumption but not for resale as tangible personal property, or items, property, or  
12 goods under s. 77.52 (1) (b), (c), or (d), or services and includes:

13           \*~~-0377/P10.93~~\* \*~~-4294/P1.84~~\* SECTION 302. 77.51 (14) (a) of the statutes is  
14 amended to read:

15           77.51 (14) (a) Any sale at an auction in with respect to tangible personal  
16 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which ~~is~~ are sold  
17 to a successful bidder. ~~The proceeds from, except the sale of tangible personal~~  
18 ~~property, items, or goods sold at auction which is~~ are bid in by the seller and on which  
19 title does not pass to a new purchaser ~~shall be deducted from the gross proceeds of~~  
20 ~~the sale and the tax paid only on the net proceeds.~~

21           \*~~-0377/P10.94~~\* \*~~-4294/P1.85~~\* SECTION 303. 77.51 (14) (b) of the statutes is  
22 amended to read:

23           77.51 (14) (b) The furnishing or distributing of tangible personal property, or  
24 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for a  
25 consideration by social clubs and fraternal organizations to their members or others.

1           **\*-0377/P10.95\* \*-4294/P1.86\* SECTION 304.** 77.51 (14) (c) of the statutes is  
2 amended to read:

3           77.51 (14) (c) A transaction whereby the possession of tangible personal  
4 property is or items, property, or goods under s. 77.52 (1) (b), (c), or (d) are transferred  
5 but the seller retains the title as security for the payment of the price.

6           **\*-0377/P10.96\* \*-4294/P1.87\* SECTION 305.** 77.51 (14) (d) of the statutes is  
7 repealed.

8           **\*-0377/P10.97\* SECTION 306.** 77.51 (14) (g) of the statutes is renumbered  
9 77.51 (15a) (b) 4. and amended to read:

10           77.51 (15a) (b) 4. A sale of tangible personal property or items, property, or  
11 goods under s. 77.52 (1) (b), (c), or (d) to a contractor or subcontractor for use in the  
12 performance of contracts with the United States or its instrumentalities for the  
13 construction of improvements on or to real property.

14           **\*-0377/P10.98\* \*-4294/P1.89\* SECTION 307.** 77.51 (14) (h) of the statutes is  
15 amended to read:

16           77.51 (14) (h) A transfer for a consideration of the title or possession of tangible  
17 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) which  
18 has have been produced, fabricated, or printed to the special order of the customer  
19 or of any publication.

20           **\*-0377/P10.99\* \*-4294/P1.90\* SECTION 308.** 77.51 (14) (i) of the statutes is  
21 repealed.

22           **\*-0377/P10.100\* \*-4294/P1.91\* SECTION 309.** 77.51 (14) (j) of the statutes is  
23 amended to read:

24           77.51 (14) (j) The granting of possession of tangible personal property or items,  
25 property, or goods under s. 77.52 (1) (b), (c), or (d) by a lessor to a lessee, or to another

1 person at the direction of the lessee. Such a transaction involving tangible personal  
2 property is deemed a continuing sale in this state ~~by the lessor for the duration of the~~  
3 ~~lease as respects any period of time the leased property is situated in this state,~~  
4 ~~irrespective of the time or place of delivery of the property to the lessee or such other~~  
5 ~~person.~~

6 \***-0377/P10.101\*** \*-4294/P1.92\* **SECTION 310.** 77.51 (14) (k) of the statutes is  
7 repealed.

8 \***-0377/P10.102\*** \*-4294/P1.93\* **SECTION 311.** 77.51 (14) (L) of the statutes is  
9 repealed.

10 \***-0377/P10.103\*** \*-4294/P1.94\* **SECTION 312.** 77.51 (14g) (a) of the statutes  
11 is amended to read:

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

15 \***-0377/P10.104\*** \*-4294/P1.95\* **SECTION 313.** 77.51 (14g) (b) of the statutes  
16 is amended to read:

17 77.51 (14g) (b) The contribution of property or items, property, or goods under  
18 s. 77.52 (1) (b), (c), or (d) to a newly formed partnership solely in consideration for a  
19 partnership interest therein;

20 \***-0377/P10.105\*** \*-4294/P1.96\* **SECTION 314.** 77.51 (14g) (bm) of the statutes  
21 is amended to read:

22 77.51 (14g) (bm) The contribution of property or items, property, or goods under  
23 s. 77.52 (1) (b), (c), or (d) to a limited liability company upon its organization solely  
24 in consideration for a membership interest;

1           **\*-0377/P10.106\* \*-4294/P1.97\* SECTION 315.** 77.51 (14g) (c) of the statutes  
2 is amended to read:

3           77.51 (14g) (c) The transfer of property or items, property, or goods under s.  
4 77.52 (1) (b), (c), or (d) to a corporation, solely in consideration for the issuance of its  
5 stock, pursuant to a merger or consolidation;

6           **\*-0377/P10.107\* \*-4294/P1.98\* SECTION 316.** 77.51 (14g) (cm) of the statutes  
7 is amended to read:

8           77.51 (14g) (cm) The transfer of property or items, property, or goods under s.  
9 77.52 (1) (b), (c), or (d) to a limited liability company, solely in consideration for a  
10 membership interest, pursuant to a merger;

11           **\*-0377/P10.108\* \*-4294/P1.99\* SECTION 317.** 77.51 (14g) (d) of the statutes  
12 is amended to read:

13           77.51 (14g) (d) The distribution of property or items, property, or goods under  
14 s. 77.52 (1) (b), (c), or (d) by a corporation to its stockholders as a dividend or in whole  
15 or partial liquidation;

16           **\*-0377/P10.109\* \*-4294/P1.100\* SECTION 318.** 77.51 (14g) (e) of the statutes  
17 is amended to read:

18           77.51 (14g) (e) The distribution of property or items, property, or goods under  
19 s. 77.52 (1) (b), (c), or (d) by a partnership to its partners in whole or partial  
20 liquidation;

21           **\*-0377/P10.110\* \*-4294/P1.101\* SECTION 319.** 77.51 (14g) (em) of the  
22 statutes is amended to read:

23           77.51 (14g) (em) The distribution of property or items, property, or goods under  
24 s. 77.52 (1) (b), (c), or (d) by a limited liability company to its members in whole or  
25 partial liquidation;



1           **\*-0377/P10.111\* \*-4294/P1.102\* SECTION 320.** 77.51 (14g) (f) of the statutes  
2 is amended to read:

3           77.51 (14g) (f) Repossession of property or items, property, or goods under s.  
4 77.52 (1) (b), (c), or (d) by the seller from the purchaser when the only consideration  
5 is cancellation of the purchaser's obligation to pay the remaining balance of the  
6 purchase price;

7           **\*-0377/P10.112\* \*-4294/P1.103\* SECTION 321.** 77.51 (14g) (g) of the statutes  
8 is amended to read:

9           77.51 (14g) (g) The transfer of property or items, property, or goods under s.  
10 77.52 (1) (b), (c), or (d) in a reorganization as defined in section 368 of the internal  
11 revenue code in which no gain or loss is recognized for franchise or income tax  
12 purposes; or

13           **\*-0377/P10.113\* \*-4294/P1.104\* SECTION 322.** 77.51 (14g) (h) of the statutes  
14 is amended to read:

15           77.51 (14g) (h) Any transfer of all or substantially all the property or items,  
16 property, or goods under s. 77.52 (1) (b), (c), or (d) held or used by a person in the  
17 course of an activity requiring the holding of a seller's permit, if after the transfer  
18 the real or ultimate ownership of the property, items, or goods is substantially similar  
19 to that which existed before the transfer. For the purposes of this section,  
20 stockholders, bondholders, partners, members or other persons holding an interest  
21 in a corporation or other entity are regarded as having the real or ultimate ownership  
22 of the property, items, or goods of the corporation or other entity. In this paragraph,  
23 "substantially similar" means 80% or more of ownership.

24           **\*-0377/P10.114\* \*-4294/P1.105\* SECTION 323.** 77.51 (14r) of the statutes is  
25 repealed.

1           \***-0377/P10.115\*** \***-4294/P1.106\*** SECTION 324. 77.51 (15) of the statutes is  
2 repealed.

3           \***-0377/P10.116\*** \***-4294/P1.107\*** SECTION 325. 77.51 (15a) of the statutes is  
4 created to read:

5           77.51 (15a) (a) "Sales, lease, or rental for resale, sublease, or subrent" includes  
6 transfers of tangible personal property or items, property, or goods under s. 77.52 (1)  
7 (b), (c), or (d) to a service provider that the service provider transfers in conjunction  
8 with but not incidental to the selling, performing, or furnishing of any service, and  
9 transfers of tangible personal property or items, property, or goods under s. 77.52 (1)  
10 (b), (c), or (d) to a service provider that the service provider physically transfers in  
11 conjunction with the selling, performing, or furnishing services under s. 77.52 (2) (a)  
12 7., 10., 11., or 20. This paragraph does not apply to sub. (2).

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

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

19           2. Any sale of tangible personal property or items, property, or goods under s.  
20 77.52 (1) (b), (c), or (d) to a purchaser even though such property, items, or goods may  
21 be used or consumed by some other person to whom such purchaser transfers the  
22 property, items, or goods without valuable consideration, such as gifts, and  
23 advertising specialties distributed at no charge and apart from the sale of other  
24 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
25 (d) or service.

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

7           \***-0377/P10.117\*** \***-4294/P1.108\*** **SECTION 326.** 77.51 (15b) of the statutes is  
8           created to read:

9           77.51 (**15b**) (a) "Sales price" means the total amount of consideration, including  
10          cash, credit, property, and services, for which tangible personal property, or items,  
11          property, or goods under s. 77.52 (1) (b), (c), or (d) or services are sold, licensed, leased,  
12          or rented, valued in money, whether received in money or otherwise, without any  
13          deduction for the following:

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

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

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

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

22                 b. If a shipment includes property or items that are subject to tax under this  
23          subchapter and property or items that are not subject to tax under this subchapter,  
24          the amount of the delivery charge that the seller allocates to the property and items  
25          that are subject to tax under this subchapter is based either on the total sales price

1 of the property and items that are subject to tax under this subchapter as compared  
2 to the total sales price of all the property and items or on the total weight of the  
3 property and items that are subject to tax under this subchapter as compared to the  
4 total weight of all the property and items.

5 5. Installation charges.

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

7 1. Discounts, including cash, terms, or coupons, that are not reimbursed by a  
8 3rd party, except as provided in par. (c); that are allowed by a seller; and that are  
9 taken by a purchaser on a sale.

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

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

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

21 5. In all transactions in which an article of tangible personal property, an item  
22 under s. 77.52 (1) (b), property under s. 77.52 (1) (c), or a good under s. 77.52 (1) (d)  
23 is traded toward the purchase of an article, item, property, or good of greater value,  
24 the amount of the sales price that represents the amount allowed for the article, item,

1 property, or good traded, except that this subdivision does not apply to any  
2 transaction to which subd. 7. or 8. applies.

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

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

13 8. At the retailer's option; except that after the retailer chooses an option the  
14 retailer may not use the other option for other sales without the department's written  
15 approval; either 35 percent of the sales price of a modular home, as defined in s.  
16 101.71 (6), or an amount equal to the sales price of the home minus the cost of  
17 materials that become an ingredient or component part of the home.

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

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

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

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

4           4. One of the following also applies:

5           a. The purchaser presents a coupon, certificate, or other documentation to the  
6 seller to claim the price reduction or discount, if the coupon, certificate, or other  
7 documentation is authorized, distributed, or granted by the 3rd party with the  
8 understanding that the 3rd party will reimburse the seller for the amount of the price  
9 reduction or discount.

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

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

15           **\*-0377/P10.118\* \*-4294/P1.109\* SECTION 327.** 77.51 (17) (intro.) of the  
16 statutes is amended to read:

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

23           **\*-0377/P10.119\* \*-4294/P1.110\* SECTION 328.** 77.51 (17m) of the statutes is  
24 repealed and recreated to read:

25           77.51 (17m) "Service address" means any of the following:

1 (a) The location of the telecommunications equipment to which a customer's  
2 telecommunications service is charged and from which the telecommunications  
3 service originates or terminates, regardless of where the telecommunications service  
4 is billed or paid.

5 (b) If the location described under par. (a) is not known by the seller who sells  
6 the telecommunications service, the location where the signal of the  
7 telecommunications service originates, as identified by the seller's  
8 telecommunications system or, if the signal is not transmitted by the seller's  
9 telecommunications system, by information that the seller received from the seller's  
10 service provider.

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

13 **\*-0377/P10.120\* \*-4294/P1.111\* SECTION 329.** 77.51 (17w) of the statutes is  
14 created to read:

15 77.51 (17w) "Soft drink" means a beverage that contains less than 0.5 percent  
16 of alcohol and that contains natural or artificial sweeteners. "Soft drink" does not  
17 include a beverage that contains milk or milk products; soy, rice, or similar milk  
18 substitutes; or more than 50 percent vegetable or fruit juice by volume.

19 **\*-0377/P10.121\* SECTION 330.** 77.51 (17x) of the statutes is created to read:

20 77.51 (17x) "Specified digital goods" means digital audio works, digital  
21 audiovisual works, and digital books. For purposes of this subchapter, the sale of or  
22 the storage, use, or other consumption of a digital code is treated the same as the sale  
23 of or the storage, use, or other consumption of any specified digital goods for which  
24 the digital code relates.

1           **\*-0377/P10.122\* \*-4294/P1.112\* SECTION 331.** 77.51 (18) of the statutes is  
2 amended to read:

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

7           **\*-0377/P10.123\* SECTION 332.** 77.51 (20) of the statutes is amended to read:

8           77.51 (20) "Tangible personal property" means all tangible personal property  
9 of every kind and description and includes electricity, natural gas, steam and water  
10 and also leased property affixed to realty if the lessor has the right to remove the  
11 property upon breach or termination of the lease agreement, unless the lessor of the  
12 property is also the lessor of the realty to which the property is affixed. "Tangible  
13 personal property" also includes coins and stamps of the United States sold or traded  
14 as collectors' items above their face value and ~~computer programs except custom~~  
15 ~~computer programs~~ prewritten computer software, regardless of how it is delivered  
16 to the purchaser.

17           **\*-0377/P10.124\* SECTION 333.** 77.51 (20) of the statutes, as affected by 2009  
18 Wisconsin Act .... (this act), is repealed and recreated to read:

19           77.51 (20) "Tangible personal property" means personal property that can be  
20 seen, weighed, measured, felt, or touched, or that is in any other manner perceptible  
21 to the senses, and includes electricity, gas, steam, water, and prewritten computer  
22 software.

23           **\*-0377/P10.125\* \*-4294/P1.114\* SECTION 334.** 77.51 (21) of the statutes is  
24 amended to read:



1           77.51 (21) "Taxpayer" means the person who is required to pay, collect, or  
2 account for or who is otherwise directly interested in the taxes imposed by this  
3 subchapter, including a certified service provider.

4           \***-0377/P10.126\*** SECTION 335. 77.51 (21m) of the statutes is amended to read:

5           77.51 (21m) "Telecommunications and Internet access services" means  
6 sending messages and information transmitted through the use of local, toll and  
7 wide-area telephone service; channel services; telegraph services; teletypewriter;  
8 computer exchange services; cellular mobile telecommunications service; specialized  
9 mobile radio; stationary two-way radio; paging service; or any other form of mobile  
10 and portable one-way or two-way communications; or any other transmission of  
11 messages or information by electronic or similar means between or among points by  
12 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.  
13 "Telecommunications and Internet access services" does not include sending collect  
14 telecommunications that are received outside of the state.

15           \***-0377/P10.127\*** SECTION 336. 77.51 (21m) of the statutes, as affected by 2009  
16 Wisconsin Act .... (this act), is renumbered 77.51 (5f) and amended to read:

17           77.51 (5f) "~~Telecommunications and~~ Internet access services" means sending  
18 messages and information transmitted through the use of local, toll and wide-area  
19 telephone service; channel services; telegraph services; teletypewriter; computer  
20 exchange services; cellular mobile telecommunications service; specialized mobile  
21 radio; stationary two-way radio; paging service; or any other form of mobile and  
22 portable one-way or two-way communications; or any other transmission of  
23 messages or information by electronic or similar means between or among points by  
24 wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.  
25 "~~Telecommunications and~~ Internet access services" does not include sending collect

1 ~~telecommunications that are received outside of the state telecommunications~~  
2 ~~services to the extent that such services are taxable under s. 77.52 (2) (a) 5. am.~~

3 \*~~0377/P10.128~~\* \*~~4294/P1.115~~\* SECTION 337. 77.51 (21n) of the statutes is  
4 created to read:

5 77.51 (21n) "Telecommunications services" means electronically transmitting,  
6 conveying, or routing voice, data, audio, video, or other information or signals to a  
7 point or between or among points. "Telecommunications services" includes the  
8 transmission, conveyance, or routing of such information or signals in which  
9 computer processing applications are used to act on the content's form, code, or  
10 protocol for transmission, conveyance, or routing purposes, regardless of whether  
11 the service is referred to as a voice over Internet protocol service or classified by the  
12 federal communications commission as an enhanced or value-added nonvoice data  
13 service. "Telecommunications services" does not include any of the following:

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

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

19 (c) Tangible personal property.

20 (d) Advertising, including directory advertising.

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

22 (f) Internet access services.

23 (g) Radio and television audio and video programming services, regardless of  
24 the medium in which the services are provided, including cable service, as defined  
25 in 47 USC 522 (6), audio and video programming services delivered by commercial

1 mobile radio service providers, as defined in 47 CFR 20.3, and the transmitting,  
2 conveying, or routing of such services by the programming service provider.

3 (h) Ancillary services.

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

6 **\*-0377/P10.129\* \*-4294/P1.116\* SECTION 338.** 77.51 (21p) of the statutes is  
7 created to read:

8 77.51 (21p) "Tobacco" means cigarettes, cigars, chewing tobacco, pipe tobacco,  
9 and any other item that contains tobacco.

10 **\*-0377/P10.130\* \*-4294/P1.117\* SECTION 339.** 77.51 (21q) of the statutes is  
11 created to read:

12 77.51 (21q) "Transferred electronically" means accessed or obtained by the  
13 purchaser by means other than tangible storage media.

14 **\*-0377/P10.131\* \*-4294/P1.118\* SECTION 340.** 77.51 (22) (a) of the statutes  
15 is amended to read:

16 77.51 (22) (a) "Use" includes the exercise of any right or power over tangible  
17 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or  
18 taxable services incident to the ownership, possession or enjoyment of the property,  
19 items, goods, or services, or the results produced by the services, including  
20 installation or affixation to real property and including the possession of, or the  
21 exercise of any right or power over tangible personal property, or items, property, or  
22 goods under s. 77.52 (1) (b), (c), or (d), by a lessee under a lease, except that "use" does  
23 not include the activities under sub. (18).

24 **\*-0377/P10.132\* \*-4294/P1.119\* SECTION 341.** 77.51 (22) (b) of the statutes  
25 is amended to read:

1           77.51 (22) (b) In this subsection “enjoyment” includes a purchaser’s right to  
2 direct the disposition of property or items, property, or goods under s. 77.52 (1) (b),  
3 (c), or (d), whether or not the purchaser has possession of the property, items, or  
4 goods. “Enjoyment” also includes, but is not limited to, having shipped into this state  
5 by an out-of-state supplier printed material which is designed to promote the sale  
6 of property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services,  
7 or which is otherwise related to the business activities, of the purchaser of the  
8 printed material or printing service.

9           \***-0377/P10.133\*** \***-4294/P1.120\*** SECTION 342. 77.51 (22) (bm) of the statutes  
10 is created to read:

11           77.51 (22) (bm) In this subsection, “exercise of any right or power over tangible  
12 personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or  
13 taxable services” includes distributing, selecting recipients, determining mailing  
14 schedules, or otherwise directing the distribution, dissemination, or disposal of  
15 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
16 (d), or taxable services, regardless of whether the purchaser of such property, items,  
17 goods, or services owns or physically possesses, in this state, the property, items,  
18 goods, or services.

19           \***-0377/P10.134\*** \***-4294/P1.121\*** SECTION 343. 77.51 (24) of the statutes is  
20 created to read:

21           77.51 (24) “Value-added nonvoice data service” means a service in which  
22 computer processing applications are used to act on the form, content, code, or  
23 protocol of the data provided by the service and are used primarily for a purpose other  
24 than for transmitting, conveying, or routing data.

1           **\*-0377/P10.135\* \*-4294/P1.122\* SECTION 344.** 77.51 (25) of the statutes is  
2 created to read:

3           77.51 (25) "Vertical service" means an ancillary service that is provided with  
4 one or more telecommunications services and allows customers to identify callers  
5 and to manage multiple calls and call connections, including conference bridging  
6 services.

7           **\*-0377/P10.136\* \*-4294/P1.123\* SECTION 345.** 77.51 (26) of the statutes is  
8 created to read:

9           77.51 (26) "Voice mail service" means an ancillary service that allows a  
10 customer to store, send, or receive recorded messages, not including any vertical  
11 service that the customer must have to use the voice mail service.

12           **\*-0377/P10.137\* \*-4294/P1.124\* SECTION 346.** 77.52 (1) of the statutes is  
13 renumbered 77.52 (1) (a) and amended to read:

14           77.52 (1) (a) For the privilege of selling, licensing, leasing or renting tangible  
15 personal property, including accessories, components, attachments, parts, supplies  
16 and materials, at retail a tax is imposed upon all retailers at the rate of 5% of the  
17 ~~gross receipts~~ sales price from the sale, license, lease or rental of tangible personal  
18 property, including accessories, components, attachments, parts, supplies and  
19 materials, sold, leased or rented at retail in this state, as determined under s. 77.522.

20           **\*-0377/P10.138\* \*-4294/P1.125\* SECTION 347.** 77.52 (1) (b) of the statutes is  
21 created to read:

22           77.52 (1) (b) For the privilege of selling at retail coins and stamps of the United  
23 States that are sold or traded as collectors' items above their face value, a tax is  
24 imposed on all retailers at the rate of 5 percent of the sales price from the sale of such  
25 coins and stamps.

1           **\*-0377/P10.139\* \*-4294/P1.126\* SECTION 348.** 77.52 (1) (c) of the statutes is  
2 created to read:

3           77.52 (1) (c) For the privilege of leasing property that is affixed to real property,  
4 a tax is imposed on all retailers at the rate of 5 percent of the sales price from the lease  
5 of such property, if the lessor has the right to remove the leased property upon breach  
6 or termination of the lease agreement, unless the lessor of the leased property is also  
7 the lessor of the real property to which the leased property is affixed.

8           **\*-0377/P10.140\* SECTION 349.** 77.52 (1) (d) of the statutes is created to read:

9           77.52 (1) (d) A tax is imposed on all retailers at the rate of 5 percent of the sales  
10 price from the sale, lease, license, or rental of specified digital goods and additional  
11 digital goods at retail for the right to use the specified digital goods or additional  
12 digital goods on a permanent or less than permanent basis and regardless of whether  
13 the purchaser is required to make continued payments for such right.

14           **\*-0377/P10.141\* \*-4294/P1.127\* SECTION 350.** 77.52 (1b) of the statutes is  
15 repealed and recreated to read:

16           77.52 (1b) All sales, licenses, leases, or rentals of tangible personal property  
17 or items, property, or goods under sub. (1) (b), (c), or (d) at retail in this state are  
18 subject to the tax imposed under sub. (1) unless an exemption in this subchapter  
19 applies.

20           **\*-0377/P10.142\* \*-4294/P1.128\* SECTION 351.** 77.52 (2) (intro.) of the  
21 statutes is amended to read:

22           77.52 (2) (intro.) For the privilege of selling, licensing, performing or furnishing  
23 the services described under par. (a) at retail in this state, as determined under s.  
24 77.522, to consumers or users, regardless of whether the consumer or user has the  
25 right of permanent use or less than the right of permanent use and regardless of

1 whether the service is conditioned on continued payment from the purchaser, a tax  
2 is imposed upon all persons selling, licensing, performing or furnishing the services  
3 at the rate of 5% of the gross receipts sales price from the sale, license, performance  
4 or furnishing of the services.

5 \***-0377/P10.143\*** \***-4294/P1.129d\*** SECTION 352. 77.52 (2) (a) 5. a. of the  
6 statutes is amended to read:

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

16 \***-0377/P10.144\*** SECTION 353. 77.52 (2) (a) 5. a. of the statutes, as affected by  
17 2009 Wisconsin Act .... (this act), is amended to read:

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

1 ~~paying in advance and by using an access number and authorization code, except~~  
2 ~~sales that are subject to subd. 5. b.~~

3 **\*-0377/P10.145\* \*-4294/P1.130\* SECTION 354.** 77.52 (2) (a) 5. am. of the  
4 statutes is created to read:

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

7 **\*-0377/P10.146\* \*-4294/P1.131\* SECTION 355.** 77.52 (2) (a) 5. b. of the  
8 statutes is repealed.

9 **\*-0377/P10.147\* \*-4294/P1.132\* SECTION 356.** 77.52 (2) (a) 5. c. of the  
10 statutes is created to read:

11 77.52 (2) (a) 5. c. The sale of ancillary services, except detailed  
12 telecommunications billing services.

13 **\*-0377/P10.148\* \*-4294/P1.133\* SECTION 357.** 77.52 (2) (a) 5m. of the  
14 statutes is amended to read:

15 77.52 (2) (a) 5m. The sale of services that consist of recording  
16 telecommunications messages and transmitting them to the purchaser of the service  
17 or at that purchaser's direction, but not including ~~those services if they are merely~~  
18 an that are taxable under subd. 5. or services that are incidental, as defined in s.  
19 77.51 (5), element of to another service that is not taxable under this subchapter and  
20 sold to that the purchaser of the incidental service and is not taxable under this  
21 subchapter.

22 **\*-0377/P10.149\* \*-4294/P1.134\* SECTION 358.** 77.52 (2) (a) 10. of the statutes  
23 is amended to read:

24 77.52 (2) (a) 10. Except for services provided by veterinarians and except for  
25 installing or applying tangible personal property that, subject to par. (ag), when



1 installed or applied, will constitute an addition or capital improvement of real  
2 property, the repair, service, alteration, fitting, cleaning, painting, coating, towing,  
3 inspection, and maintenance of all items of tangible personal property or items,  
4 property, or goods under s. 77.52 (1) (b), (c), or (d), unless, at the time of that repair,  
5 service, alteration, fitting, cleaning, painting, coating, towing, inspection, or  
6 maintenance, a sale in this state of the type of property, item, or good repaired,  
7 serviced, altered, fitted, cleaned, painted, coated, towed, inspected, or maintained  
8 would have been exempt to the customer from sales taxation under this subchapter,  
9 other than the exempt sale of a motor vehicle or truck body to a nonresident under  
10 s. 77.54 (5) (a) and other than nontaxable sales under s. ~~77.51 (14r)~~ 77.522 or unless  
11 the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection,  
12 or maintenance is provided under a contract that is subject to tax under subd. 13m.  
13 The tax imposed under this subsection applies to the repair, service, alteration,  
14 fitting, cleaning, painting, coating, towing, inspection, or maintenance of items listed  
15 in par. (ag), regardless of whether the installation or application of tangible personal  
16 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) related to the  
17 items is an addition to or a capital improvement of real property, except that the tax  
18 imposed under this subsection does not apply to the original installation or the  
19 complete replacement of an item listed in par. (ag), if that installation or replacement  
20 is a real property construction activity under s. 77.51 (2).

21 **\*-0377/P10.150\* \*-4294/P1.135m\* SECTION 359.** 77.52 (2) (a) 11. of the  
22 statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

23 77.52 (2) (a) 11. The producing, fabricating, processing, printing, or imprinting  
24 of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c),  
25 or (d) for a consideration for consumers who furnish directly or indirectly the

1 materials used in the producing, fabricating, processing, printing, or imprinting.

2 This subdivision does not apply to the printing or imprinting of tangible personal  
3 property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) that results in  
4 printed material, catalogs, or envelopes that are exempt under s. 77.54 (25) or (25m).

5 **\*-0377/P10.151\* \*-4294/P1.135\* SECTION 360.** 77.52 (2) (a) 13m. of the  
6 statutes is created to read:

7 77.52 (2) (a) 13m. The sale of contracts, including service contracts,  
8 maintenance agreements, computer software maintenance contracts for prewritten  
9 computer software, and warranties, that provide, in whole or in part, for the future  
10 performance of or payment for the repair, service, alteration, fitting, cleaning,  
11 painting, coating, towing, inspection, or maintenance of tangible personal property  
12 or items, property, or goods under s. 77.52 (1) (b), (c), or (d), unless the sale, license,  
13 lease, or rental in this state of the property, items, or goods to which the contract  
14 relates is or was exempt, to the purchaser of the contract, from taxation under this  
15 subchapter.

16 **\*-0377/P10.152\* \*-4294/P1.136\* SECTION 361.** 77.52 (2m) (a) of the statutes  
17 is amended to read:

18 77.52 (2m) (a) With respect to the services subject to tax under sub. (2), no part  
19 of the charge for the service may be deemed a sale or rental of tangible personal  
20 property or items, property, or goods under sub. (1) (b), (c), or (d) if the property, items,  
21 or goods transferred by the service provider is are incidental to the selling,  
22 performing or furnishing of the service, except as provided in par. (b).

23 **\*-0377/P10.153\* \*-4294/P1.137\* SECTION 362.** 77.52 (2m) (b) of the statutes  
24 is amended to read:

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

7           \***-0377/P10.154\*** \***-4294/P1.138\*** SECTION 363. 77.52 (2n) of the statutes is  
8           repealed and recreated to read:

9           77.52 (2n) The selling, licensing, performing, or furnishing of the services  
10          described under sub. (2) (a) at retail in this state, as determined under s. 77.522, is  
11          subject to the tax imposed under sub. (2) unless an exemption in this subchapter  
12          applies.

13          \***-0377/P10.155\*** \***-4294/P1.139\*** SECTION 364. 77.52 (3m) of the statutes is  
14          repealed.

15          \***-0377/P10.156\*** \***-4294/P1.140\*** SECTION 365. 77.52 (3n) of the statutes is  
16          repealed.

17          \***-0377/P10.157\*** \***-4294/P1.141\*** SECTION 366. 77.52 (4) of the statutes is  
18          amended to read:

19          77.52 (4) It is unlawful for any retailer to advertise or hold out or state to the  
20          public or to any customer, directly or indirectly, that the tax or any part thereof will  
21          be assumed or absorbed by the retailer or that it will not be added to the selling price  
22          of the property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) sold or that  
23          if added it, or any part thereof, will be refunded. Any person who violates this  
24          subsection is guilty of a misdemeanor.

1           **\*-0377/P10.158\* \*-4294/P1.142\* SECTION 367.** 77.52 (6) of the statutes is  
2 repealed.

3           **\*-0377/P10.159\* \*-4294/P1.143\* SECTION 368.** 77.52 (7) of the statutes is  
4 amended to read:

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

19           **\*-0377/P10.160\* \*-4294/P1.144\* SECTION 369.** 77.52 (7b) of the statutes is  
20 created to read:

21           77.52 (7b) Any person who may register under sub. (7) may designate an agent,  
22 as defined in s. 77.524 (1) (ag), to register with the department under sub. (7), in the  
23 manner prescribed by the department.

24           **\*-0377/P10.161\* \*-4294/P1.145\* SECTION 370.** 77.52 (12) of the statutes is  
25 amended to read:

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

12           \*-0377/P10.162\* \*-4294/P1.146\* SECTION 371. 77.52 (13) of the statutes is  
13 amended to read:

14           77.52 (13) For the purpose of the proper administration of this section and to  
15 prevent evasion of the sales tax it shall be presumed that all receipts are subject to  
16 the tax until the contrary is established. The burden of proving that a sale of tangible  
17 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services  
18 is not a taxable sale at retail is upon the person who makes the sale unless that  
19 person takes from the purchaser ~~a~~ an electronic or a paper certificate, in a manner  
20 prescribed by the department, to the effect that the property, item, good, or service  
21 is purchased for resale or is otherwise exempt, except that no certificate is required  
22 ~~for sales of cattle, sheep, goats, and pigs that are sold at an animal market, as defined~~  
23 ~~in s. 95.68 (1) (ag), and no certificate is required for sales of commodities, as defined~~  
24 ~~in 7 USC 2, that are consigned for sale in a warehouse in or from which the~~  
25 ~~commodity is deliverable on a contract for future delivery subject to the rules of a~~

1 commodity market regulated by the U.S. commodity futures trading commission if  
2 upon the sale the commodity is not removed from the warehouse the sale of tangible  
3 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services  
4 that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21),  
5 (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), and (52).

6 **\*-0377/P10.163\* \*-4294/P1.147\* SECTION 372.** 77.52 (14) (a) (intro.) and 1.  
7 and (b) of the statutes are consolidated, renumbered 77.52 (14) (a) and amended to  
8 read:

9 77.52 (14) (a) The certificate referred to in sub. (13) relieves the seller from the  
10 burden of proof of the tax otherwise applicable only if any of the following is true:  
11 1. The certificate is taken in good faith the seller obtains a fully completed exemption  
12 certificate, or the information required to prove the exemption, from a person who  
13 is engaged as a seller of tangible personal property or taxable services and who holds  
14 the permit provided for in sub. (9) and who, at the time of purchasing purchaser no  
15 later than 90 days after the date of the sale of the tangible personal property, or items,  
16 property, or goods under sub. (1) (b), (c), or (d), or services, intends to sell it in the  
17 regular course of operations or is unable to ascertain at the time of purchase whether  
18 the property or service will be sold or will be used for some other purpose. (b) except  
19 as provided in par. (am). The certificate under sub. (13) shall not relieve the seller  
20 of the tax otherwise applicable if the seller fraudulently fails to collect sales tax,  
21 solicits the purchaser to claim an unlawful exemption, or accepts an exemption  
22 certificate from a purchaser who claims to be an entity that is not subject to the taxes  
23 imposed under this subchapter, if the subject of the transaction sought to be covered  
24 by the exemption certificate is received by the purchaser at a location operated by the  
25 seller in this state and the exemption certificate clearly and affirmatively indicates

1     that the claimed exemption is not available in this state. The certificate referred to  
2     in sub. (13) shall be ~~signed by and bear the name and address of~~ provide information  
3     that identifies the purchaser, and shall indicate the ~~general character of the tangible~~  
4     ~~personal property or service sold by the purchaser and the basis for the claimed~~  
5     ~~exemption and a paper certificate shall be signed by the purchaser.~~ The certificate  
6     shall be in such form as the department prescribes by rule.

7           \*~~-0377/P10.164~~\* \*~~-4294/P1.148~~\* **SECTION 373.** 77.52 (14) (a) 2. of the statutes  
8     is repealed.

9           \*~~-0377/P10.165~~\* \*~~-4294/P1.149~~\* **SECTION 374.** 77.52 (14) (am) of the statutes  
10    is created to read:

11           77.52 (14) (am) If the seller has not obtained a fully completed exemption  
12    certificate or the information required to prove the exemption, as provided in par. (a),  
13    the seller may, no later than 120 days after the department requests that the seller  
14    substantiate the exemption, either provide proof of the exemption to the department  
15    by other means or obtain, in good faith, a fully completed exemption certificate from  
16    the purchaser.

17           \*~~-0377/P10.166~~\* **SECTION 375.** 77.52 (14) (bm) of the statutes is created to  
18    read:

19           77.52 (14) (bm) A certified service provider is relieved from liability for the tax  
20    otherwise applicable to the same extent as the seller, who is the certified service  
21    provider's client, is relieved from liability for the tax otherwise applicable under par.  
22    (a) or (am).

23           \*~~-0377/P10.167~~\* \*~~-4294/P1.150~~\* **SECTION 376.** 77.52 (15) of the statutes is  
24    amended to read:

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

14           \***-0377/P10.168\*** \***-4294/P1.151\*** **SECTION 377.** 77.52 (16) of the statutes is  
15 amended to read:

16           77.52 (16) Any person who gives a resale certificate for property, or items,  
17 property, or goods under sub. (1) (b), (c), or (d), or services which that person knows  
18 at the time of purchase is not to be resold by that person in the regular course of that  
19 person's operations as a seller for the purpose of evading payment to the seller of the  
20 amount of the tax applicable to the transaction is guilty of a misdemeanor. Any  
21 person certifying to the seller that the sale of property, or items, property, or goods  
22 under sub. (1) (b), (c), or (d), or taxable service is exempt, knowing at the time of  
23 purchase that it is not exempt, for the purpose of evading payment to the seller of the  
24 amount of the tax applicable to the transaction, is guilty of a misdemeanor.



1           **\*-0377/P10.169\* \*-4294/P1.152d\* SECTION 378.** 77.52 (17m) (b) 6. of the  
2 statutes is amended to read:

3           77.52 (17m) (b) 6. The applicant purchases enough tangible personal property  
4 or items, property, or goods under s. 77.52 (1) (b), (c), or (d) under circumstances that  
5 make it difficult to determine whether the property, items, or goods will be subject  
6 to a tax under this subchapter.

7           **\*-0377/P10.170\* \*-4294/P1.152\* SECTION 379.** 77.52 (19) of the statutes is  
8 amended to read:

9           77.52 (19) The department shall by rule provide for the efficient collection of  
10 the taxes imposed by this subchapter on sales of tangible personal property, or items,  
11 property, or goods under sub. (1) (b), (c), or (d), or services by persons not regularly  
12 engaged in selling at retail in this state or not having a permanent place of business,  
13 but who are temporarily engaged in selling from trucks, portable roadside stands,  
14 concessions at fairs and carnivals, and the like. The department may authorize such  
15 persons to sell property or items, property or goods under sub. (1) (b), (c), or (d) or sell,  
16 perform, or furnish services on a permit or nonpermit basis as the department by rule  
17 prescribes and failure of any person to comply with such rules constitutes a  
18 misdemeanor.

19           **\*-0377/P10.171\* \*-4294/P1.153\* SECTION 380.** 77.52 (20) of the statutes is  
20 created to read:

21           77.52 (20) (a) Except as provided in par. (b), the entire sales price of a bundled  
22 transaction is subject to the tax imposed under this subchapter.

23           (b) At the retailer's option, if the retailer can identify, by reasonable and  
24 verifiable standards from the retailer's books and records that are kept in the  
25 ordinary course of its business for other purposes, including purposes unrelated to

1 taxes, the portion of the price that is attributable to products that are not subject to  
2 the tax imposed under this subchapter, that portion of the sales price is not taxable  
3 under this subchapter. This paragraph does not apply to a bundled transaction that  
4 contains food and food ingredients, drugs, durable medical equipment, mobility  
5 enhancing equipment, prosthetic devices, or medical supplies.

6 **\*-0377/P10.172\* \*-4294/P1.154\* SECTION 381.** 77.52 (21) of the statutes is  
7 created to read:

8 77.52 (21) A person who provides a product that is not a distinct and  
9 identifiable product because it is provided free of charge, as provided in s. 77.51 (3pf)  
10 (b), is the consumer of that product and shall pay the tax imposed under this  
11 subchapter on the purchase price of that product.

12 **\*-0377/P10.173\* \*-4294/P1.155\* SECTION 382.** 77.52 (22) of the statutes is  
13 created to read:

14 77.52 (22) With regard to transactions described in s. 77.51 (1f) (b), the service  
15 provider is the consumer of the tangible personal property or items, property, or  
16 goods under sub. (1) (b), (c), or (d) and shall pay the tax imposed under this  
17 subchapter on the purchase price of the property, items, or goods.

18 **\*-0377/P10.174\* \*-4294/P1.156\* SECTION 383.** 77.52 (23) of the statutes is  
19 created to read:

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

24 **\*-0377/P10.175\* \*-4294/P1.157\* SECTION 384.** 77.522 of the statutes is  
25 created to read:

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

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

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

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

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

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

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

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

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

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

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

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

14           5. If the location of a sale of a product cannot be determined under subds. 1. to  
15 4., including the circumstance in which the seller has insufficient information to  
16 determine the locations under subds. 1. to 4., the location of the sale is determined  
17 as follows:

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

21           b. If the item sold is a digital good or computer software delivered electronically,  
22 the sale is sourced to the location from which the computer software was first  
23 available for transmission by the seller, not including any location that merely  
24 provided the digital transfer of the product sold.

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

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

21 (2) DIGITAL GOODS. (a) If the location of a sale of the digital good under s. 77.52  
22 (1) (d) cannot be determined under sub. (1) (b), including the circumstance in which  
23 the seller has insufficient information to determine the location under sub. (1) (b),  
24 the sale is sourced to the location from which the digital good was first available for

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

1 telecommunications system, by information that the seller received from the seller's  
2 service provider.

3 (f) The sale of a prepaid calling service or a prepaid wireless calling service is  
4 sourced to the location determined under sub. (1) (b), except that, if the service is a  
5 prepaid wireless calling service and the location cannot be determined under sub. (1)  
6 (b) 1. to 4., the prepaid wireless calling service occurs at the location determined  
7 under sub. (1) (b) 5. c. or at the location associated with the mobile telephone number,  
8 as determined by the seller.

9 (g) 1. The sale of a private communication service for a separate charge related  
10 to a customer channel termination point is sourced to the location of the customer  
11 channel termination point.

12 2. The sale of a private communication service in which all customer channel  
13 termination points are located entirely in one taxing jurisdiction for sales and use  
14 tax purposes is sourced to the taxing jurisdiction in which the customer channel  
15 termination points are located.

16 3. If the segments are charged separately, the sale of a private communication  
17 service that represents segments of a communications channel between 2 customer  
18 channel termination points that are located in different taxing jurisdictions for sales  
19 and use tax purposes is sourced to an equal percentage in both such jurisdictions.

20 4. If the segments are not charged separately, the sale of a private  
21 communication service for segments of a communications channel that is located in  
22 more than one taxing jurisdiction for sales and use tax purposes is sourced to each  
23 such jurisdiction in a percentage determined by dividing the number of customer  
24 channel termination points in that jurisdiction by the number of customer channel

1 termination points in all jurisdictions where segments of the communications  
2 channel are located.

3 (h) The sale of an Internet access service is sourced to the customer's place of  
4 primary use.

5 (i) The sale of an ancillary service is sourced to the customer's place of primary  
6 use.

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

11 (5) FLORISTS. (a) For purposes of this subsection, "retail florist" means a person  
12 engaged in the business of selling cut flowers, floral arrangements, and potted plants  
13 and who prepares such flowers, floral arrangements, and potted plants. "Retail  
14 florist" does not include a person who sells cut flowers, floral arrangements, and  
15 potted plants primarily by mail or via the Internet.

16 (b) Sales by a retail florist are sourced to the location determined by rule by the  
17 department.

18 **\*-0377/P10.176\* \*-4294/P1.158\* SECTION 385.** 77.523 (title) of the statutes  
19 is repealed.

20 **\*-0377/P10.177\* \*-4294/P1.159\* SECTION 386.** 77.523 of the statutes is  
21 renumbered 77.59 (9p) (a) and amended to read:

22 77.59 (9p) (a) If a customer purchases a service that is subject to 4 USC 116  
23 to 126, as amended by P.L. 106-252, and if the customer believes that the amount  
24 of the tax assessed for the service under this subchapter or the place of primary use  
25 or taxing jurisdiction assigned to the service is erroneous, the customer may request

1 that the service provider correct the alleged error by sending a written notice to the  
2 service provider. The notice shall include a description of the alleged error, the street  
3 address for the customer's place of primary use of the service, the account name and  
4 number of the service for which the customer seeks a correction, and any other  
5 information that the service provider reasonably requires to process the request.  
6 Within 60 days from the date that a service provider receives a request under this  
7 section paragraph, the service provider shall review its records to determine the  
8 customer's taxing jurisdiction. If the review indicates that there is no error as  
9 alleged, the service provider shall explain the findings of the review in writing to the  
10 customer. If the review indicates that there is an error as alleged, the service  
11 provider shall correct the error and shall refund or credit the amount of any tax  
12 collected erroneously, along with the related interest, as a result of the error from the  
13 customer in the previous 48 months, consistent with s. 77.59 (4). A customer may  
14 take no other action against the service provider, or commence any action, to correct  
15 an alleged error in the amount of the tax assessed under this subchapter on a service  
16 that is subject to 4 USC 116 to 126, as amended by P.L. 106-252, or to correct an  
17 alleged error in the assigned place of primary use or taxing jurisdiction, unless the  
18 customer has exhausted his or her remedies under this section paragraph.

19 **\*-0377/P10.178\* \*-4294/P1.160\* SECTION 387.** 77.524 (1) (a) of the statutes  
20 is renumbered 77.524 (1) (am).

21 **\*-0377/P10.179\* \*-4294/P1.161\* SECTION 388.** 77.524 (1) (ag) of the statutes  
22 is created to read:

23 77.524 (1) (ag) "Agent" means a person appointed by a seller to represent the  
24 seller before the states that are signatories to the agreement, as defined in s. 77.65  
25 (2) (a).

1           \***-0377/P10.180\*** \***-4294/P1.162\*** **SECTION 389.** 77.524 (1) (b) of the statutes  
2 is renumbered 77.51 (1g) and amended to read:

3           77.51 (1g) "Certified service provider" means an agent that is certified jointly  
4 by the states that are signatories to the agreement, as defined in s. 77.65 (2) (a), and  
5 that performs all of a seller's sales tax and use tax functions related to the seller's  
6 retail sales, except that a certified service provider is not responsible for a retailer's  
7 obligation to remit tax on the retailer's own purchases.

8           \***-0377/P10.181\*** \***-4294/P1.163\*** **SECTION 390.** 77.525 of the statutes is  
9 amended to read:

10           **77.525 Reduction to prevent double taxation.** Any person who is subject  
11 to the tax under s. 77.52 (2) (a) 5. ~~a.~~ on telecommunications services that terminate  
12 in this state and who has paid a similar tax on the same services to another state may  
13 reduce the amount of the tax remitted to this state by an amount equal to the similar  
14 tax properly paid to another state on those services or by the amount due this state  
15 on those services, whichever is less. That person shall refund proportionally to the  
16 persons to whom the tax under s. 77.52 (2) (a) 5. ~~a.~~ was passed on an amount equal  
17 to the amounts not remitted.

18           \***-0377/P10.182\*** \***-4294/P1.164\*** **SECTION 391.** 77.53 (1) of the statutes is  
19 amended to read:

20           77.53 (1) Except as provided in sub. (1m), an excise tax is levied and imposed  
21 on the use or consumption in this state of taxable services under s. 77.52 purchased  
22 from any retailer, at the rate of 5% of the sales purchase price of those services; on  
23 the storage, use or other consumption in this state of tangible personal property and  
24 items or property under s. 77.52 (1) (b) or (c) purchased from any retailer, at the rate  
25 of 5% of the sales purchase price of ~~that~~ the property or items; on the storage, use,

1 or other consumption of goods under s. 77.52 (1) (d) purchased from any retailer, if  
2 the purchaser has the right to use the goods on a permanent or less than permanent  
3 basis and regardless of whether the purchaser is required to make continued  
4 payments for such right, at the rate of 5 percent of the sales price of the goods; and  
5 on the storage, use or other consumption of tangible personal property or items,  
6 property, or goods under s. 77.52 (1) (b), (c), or (d) manufactured, processed or  
7 otherwise altered, in or outside this state, by the person who stores, uses or consumes  
8 it, from material purchased from any retailer, at the rate of 5% of the sales purchase  
9 price of that material.

10 **\*-0377/P10.183\* \*-4294/P1.165\* SECTION 392.** 77.53 (1b) of the statutes is  
11 repealed and recreated to read:

12 77.53 (1b) The storage, use, or other consumption in this state of tangible  
13 personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), and  
14 the use or other consumption in this state of a taxable service, purchased from any  
15 retailer is subject to the tax imposed in this section unless an exemption in this  
16 subchapter applies.

17 **\*-0377/P10.184\* \*-4294/P1.166\* SECTION 393.** 77.53 (2) of the statutes is  
18 amended to read:

19 77.53 (2) Every person storing, using, or otherwise consuming in this state  
20 tangible personal property, or items, property, or goods specified under s. 77.52 (1)  
21 (b), (c), or (d), or taxable services purchased from a retailer is liable for the tax  
22 imposed by this section. The person's liability is not extinguished until the tax has  
23 been paid to this state, but a receipt with the tax separately stated from a retailer  
24 engaged in business in this state or from a retailer who is authorized by the  
25 department, under such rules as it prescribes, to collect the tax and who is regarded

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

4 **\*-0377/P10.185\* \*-4294/P1.167\* SECTION 394.** 77.53 (3) of the statutes is  
5 amended to read:

6 77.53 (3) Every retailer engaged in business in this state and making sales of  
7 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
8 (d), or taxable services for delivery into this state or with knowledge directly or  
9 indirectly that the property or service is intended for storage, use or other  
10 consumption in that are sourced to this state under s. 77.522, shall, at the time of  
11 making the sales or, if the storage, use or other consumption of the tangible personal  
12 property or taxable service is not then taxable under this section, at the time the  
13 storage, use or other consumption becomes taxable, collect the tax from the  
14 purchaser and give to the purchaser a receipt in the manner and form prescribed by  
15 the department.

16 **\*-0377/P10.186\* \*-4294/P1.168\* SECTION 395.** 77.53 (4) of the statutes is  
17 repealed.

18 **\*-0377/P10.187\* \*-4294/P1.169\* SECTION 396.** 77.53 (9) of the statutes is  
19 amended to read:

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

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

5 **\*-0377/P10.188\* \*-4294/P1.170\* SECTION 397.** 77.53 (9m) of the statutes is  
6 renumbered 77.53 (9m) (a) and amended to read:

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

15 **\*-0377/P10.189\* \*-4294/P1.171\* SECTION 398.** 77.53 (9m) (b) of the statutes  
16 is created to read:

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

20 **\*-0377/P10.190\* \*-4294/P1.172\* SECTION 399.** 77.53 (9m) (c) of the statutes  
21 is created to read:

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



1           \***-0377/P10.191\*** \***-4294/P1.173\*** SECTION 400. 77.53 (10) of the statutes is  
2 amended to read:

3           77.53 (10) For the purpose of the proper administration of this section and to  
4 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that  
5 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or  
6 (d), or taxable services sold by any person for delivery in this state is sold for storage,  
7 use, or other consumption in this state until the contrary is established. The burden  
8 of proving the contrary is upon the person who makes the sale unless that person  
9 takes from the purchaser ~~a~~ an electronic or paper certificate, in a manner prescribed  
10 by department, to the effect that the property, or items, property, or goods under s.  
11 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise exempt  
12 from the tax, except that no certificate is required for sales of cattle, sheep, goats,  
13 and pigs that are sold at an animal market, as defined in s. 95.68 (1) (ag), and no  
14 certificate is required for sales of commodities, as defined in 7 USC 2, that are  
15 consigned for sale in a warehouse in or from which the commodity is deliverable on  
16 a contract for future delivery subject to the rules of a commodity market regulated  
17 by the U.S. commodity futures trading commission if upon the sale the commodity  
18 is not removed from the warehouse the sale of tangible personal property, or items,  
19 property, or goods under s. 77.52 (1) (b), (c), or (d), or services that are exempt under  
20 s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36),  
21 (37), (42), (44), (45), (46), (51), and (52).

22           \***-0377/P10.192\*** \***-4294/P1.174\*** SECTION 401. 77.53 (11) of the statutes is  
23 renumbered 77.53 (11) (a) and amended to read:

24           77.53 (11) (a) The certificate referred to in under sub. (10) relieves the person  
25 selling the property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or

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

24 \***-0377/P10.193\*** \***-4294/P1.175\*** SECTION 402. 77.53 (11) (b) of the statutes  
25 is created to read: