

2015 DRAFTING REQUEST

Bill

Received: 1/11/2015 Received By: jkreye
Wanted: As time permits Same as LRB:
For: Administration-Budget By/Representing: Wimmer
May Contact: Drafter: jkreye
Subject: Tax, Other - sales Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: joseph.kreye@legis.wisconsin.gov
sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Wimmer, BB0423 -

Topic:

Sales and use tax nexus creating activities

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 1/12/2015			_____			
/P1	jkreye 1/21/2015	chanaman 1/14/2015	rschluet 1/14/2015	_____	srose 1/14/2015		State S&L
/P2	jkreye 1/27/2015	kfollett 1/21/2015	rschluet 1/22/2015	_____	sbasford 1/22/2015		State S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3		jdye 1/27/2015	rschluet 1/27/2015	_____	srose 1/27/2015		State S&L

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1/23/15
1/27
1/27/15

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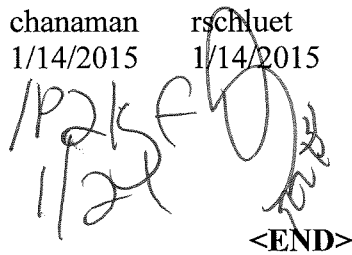
Instructions:

See attached

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/P1		chanaman 1/14/2015	rschluet 1/14/2015	_____	srose 1/14/2015		State S&L

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Handwritten notes:
1/21/15
1/24

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/?	jkreye		<i>J</i> <i>1/14/15</i>	==			
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FE Sent For:

<END>

Kreye, Joseph

From: Hanaman, Cathlene
Sent: Friday, January 09, 2015 3:06 PM
To: Kreye, Joseph; Shovers, Marc
Subject: FW: Statutory Language Drafting Request - BB0423
Attachments: Sales Tax - Nexus-Creating Activities.docx

From: robert.wimmer@wisconsin.gov [mailto:robert.wimmer@wisconsin.gov]
Sent: Friday, January 09, 2015 3:00 PM
To: Hanaman, Cathlene
Cc: Ziegler, Paul - DOA; Wimmer, Robert C - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0423

Biennial Budget: 2015-17

Topic: Sales and Use Tax Nexus Creating Activities

Tracking Code: BB0423

SBO Team: TLGED

SBO Analyst: Wimmer, Robert
Phone: 608-266-7597
E-mail: robert.wimmer@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Medium

Intent: Expand statutory language defining a "retailer engaged in business in this state," to include activities that are currently detailed in administrative rule. Also, specify that nexus is established whether the activity is undertaken for either a taxable or nontaxable service.

Attachments: True

Please send completed drafts to SBOSatlanguage@webapps.wi.gov

TITLE: Codify Sales and Use Tax Nexus-Creating Activities

DESCRIPTION OF CURRENT LAW AND PROBLEM

The current definition of "retailer engaged in business in this state" in the sales and use tax law is too limiting because it states that "retailer engaged in business in this state" **means** a retailer who is engaged in certain listed activities (sec. 77.51(13g), Wis. Stats.) This is too limiting in that it is an exhaustive list that does not allow the statute to keep up with changes in state taxation as nexus evolves through court cases.

The department has, by rule, specifically provided that certain other activities create sales and use tax nexus for a seller. (Section Tax 11.97(3)(e), (f), and (g), Wis. Adm. Code (August 2012 Register)) The activities that are not included in sec. 77.51(13g), Wis. Stats., are as follows:

1. Servicing, repairing, or installing equipment or other tangible personal property or certain items, property, or goods in Wisconsin
2. Delivering property, items, or goods into Wisconsin in company operated vehicles
3. Performing construction activities in Wisconsin

The activities listed in sec. Tax 11.97(3)(e) and (g), are too limited in that they do not state that nexus is created by having a representative operating in Wisconsin for the purpose of (1) servicing, repairing, or installing equipment or other tangible personal property or certain items, property, or goods in Wisconsin, or (2) performing construction activities in Wisconsin

Also, the activities listed in sec. Tax 11.97(3)(d), Wis. Adm. Code, are too limited and should be expanded. This section provides that a retailer having a representative operating in Wisconsin for the purpose of selling, delivering, or taking orders for **taxable** services has nexus in Wisconsin. Courts have determined that nexus exists without regard to whether the services provided in a state are taxable. If a retailer has a representative in Wisconsin to sell, deliver, or take orders for nontaxable services, the retailer has the physical presence needed to create nexus.

For example, Company A is located outside Wisconsin and has a representative in Wisconsin to perform real property construction activities. This should be listed as an activity that creates nexus for Company A.

RECOMMENDATION FOR ACTION

Repeal and recreate sec. 77.51(13g), Wis. Stats., to **include** a retailer who is engaged in the activities listed in sec. Tax 11.97(3), Wis. Adm. Code. The activity listed in sec. Tax 11.97(3)(d), Wis. Adm. Code, should be expanded so that nexus is established for a person who has a representative in Wisconsin to perform any of the services listed in sec. 77.51(13g), Wis. Stats. The activity listed in sec. Tax 11.97(3)(d) should also be expanded to refer to "services" rather than "taxable services".

IMPACT ON JOBS CREATION

No impact.

FISCAL EFFECT

Unknown.

DRAFTING INSTRUCTIONS

Repeal and recreate sec. 77.51(13g), Wis. Stats., to read:

"Except as provided in sub. (13h), "retailer engaged in business in this state", for purposes of the use tax, includes any of the following:

- (a) Any retailer owning any real property in this state.
- (b) Any retailer leasing or renting out any tangible personal property or items or property under s. 77.52 (1) (b) or (c), Wis. Stats., sourced to this state under s. 77.522, Wis. Stats.
- (c) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, agent, or other person, an office, place of distribution, sales or sample room, or place, warehouse, or storage place, or other place of business in this state.
- (d) Any retailer having any representative, including a manufacturer's representative, agent, salesperson, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or taking orders for any tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), Wis. Stats., or services, or for the purpose of performing any of the activities in this subsection.
- (e) Any person servicing, repairing, or installing equipment or other tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d), Wis. Stats., in this state.
- (f) Any person delivering property, items, or goods into this state in company operated vehicles.
- (g) Any person performing construction activities in this state.
- (h) Any retailer selling tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), Wis. Stats., or taxable services for storage, use, or other consumption in this state, unless otherwise limited by federal law.
- (i) Any person who has an affiliate in this state, if the person is related to the affiliate and if the affiliate uses facilities or employees in this state to advertise, promote, or facilitate the establishment of or market for sales of items by the related person to purchasers in this state or for providing services to the related person's purchasers in this state, including accepting returns of purchases or resolving customer complaints. For purposes of this paragraph, 2 persons are related if any of the following apply:

77.51(13g)(a)

77.51(13g)(b)

*create
M.Dur*

insert add (b) and (c)

what company?

77.51(13g)(c)

stop understood

77.51(13g)(d)

stop understood

1. One person, or each person, is a corporation and one person and any person related to that person in a manner that would require a stock attribution from the corporation to the person or from the person to the corporation under section 318 of the Internal Revenue Code owns directly, indirectly, beneficially, or constructively at least 50 percent of the corporation's outstanding stock value.
2. One person, or each person, is a partnership, estate, or trust and any partner or beneficiary; and the partnership, estate, or trust and its partners or beneficiaries; own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of the profits, capital, stock, or value of the other person or both persons.
3. An individual stockholder and the members of the stockholder's family, as defined in section 318 of the Internal Revenue Code, owns directly, indirectly, beneficially, or constructively, in the aggregate, at least 50 percent of both persons' outstanding stock value."

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

Day after publication.

INTERESTED/AFFECTED PARTIES

Retailers that make sales to customers in Wisconsin.

DOR CONTACT PERSON

Diane Hardt, Division Administrator
(608) 266-6798
diane.hardt@revenue.wi.gov

PREPARED BY

Mike Hinnendael



4/15

cmh

DOA:.....Wimmer, BB0423 - Sales and use tax nexus creating activities

FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION

in mar 1-12-15

done for

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill modifies the definition of a "retailer engaged in business in this state" for use tax purposes, so that it includes the following:

1. Any person repairing or installing equipment in this state.
2. Any person delivering goods into this state in a vehicle owned by the business that is selling the goods.
3. Any person performing construction activities in this state.

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

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

2 SECTION 1. 77.51 (13g) (intro.) of the statutes is amended to read:

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

History: 1973 c. 333; 1975 c. 39, 41, 99, 224; 1975 c. 413 s. 18; 1977 c. 29, 418; 1979 c. 1 ss. 57 to 59, 61, 62; 1979 c. 174; 1981 c. 20; 1981 c. 79 s. 17; 1983 a. 23, 27; 1983 a. 189 ss. 92 to 108, 329 (12); 1983 a. 510, 538; 1983 a. 544 ss. 13 to 46, 47 (1) (b); 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 31, 335, 336; 1991 a. 39, 269, 316; 1993 a. 16, 112, 184; 1997 a. 27, 237; 1999 a. 9, 83; 2001 a. 45, 102; 2003 a. 48; 2005 a. 25, 327, 441, 479; 2007 a. 11, 20, 130; 2009 a. 2 ss. 225 to 345, 389; 2009 a. 12 s. 18; 2009 a. 28 ss. 1830b to 1836h, 1844 to 1846; 2009 a. 276, 330; 2011 a. 208; 2013 a. 20 ss. 1475 to 1484, 1489 to 1491.

4 **SECTION 2.** 77.51 (13g) (a) of the statutes is amended to read:

5 77.51 (13g) (a) Any retailer owning any real property in this state ~~or,~~

6 (ab) Any retailer leasing or renting out any tangible personal property, or items
7 or property under s. 77.52 (1) (b) or (c), ~~located in that is sourced to this state or under~~
8 s. 77.522.

9 (ac) Any retailer maintaining, occupying, or using, permanently or
10 temporarily, directly or indirectly, or through a subsidiary, ~~or an agent, by whatever~~
11 name called or some other person, an office, place of distribution, sales or sample
12 room or place, warehouse or storage place, or other place of business in this state.

History: 1973 c. 333; 1975 c. 39, 41, 99, 224; 1975 c. 413 s. 18; 1977 c. 29, 418; 1979 c. 1 ss. 57 to 59, 61, 62; 1979 c. 174; 1981 c. 20; 1981 c. 79 s. 17; 1983 a. 23, 27; 1983 a. 189 ss. 92 to 108, 329 (12); 1983 a. 510, 538; 1983 a. 544 ss. 13 to 46, 47 (1) (b); 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 31, 335, 336; 1991 a. 39, 269, 316; 1993 a. 16, 112, 184; 1997 a. 27, 237; 1999 a. 9, 83; 2001 a. 45, 102; 2003 a. 48; 2005 a. 25, 327, 441, 479; 2007 a. 11, 20, 130; 2009 a. 2 ss. 225 to 345, 389; 2009 a. 12 s. 18; 2009 a. 28 ss. 1830b to 1836h, 1844 to 1846; 2009 a. 276, 330; 2011 a. 208; 2013 a. 20 ss. 1475 to 1484, 1489 to 1491.

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

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

History: 1973 c. 333; 1975 c. 39, 41, 99, 224; 1975 c. 413 s. 18; 1977 c. 29, 418; 1979 c. 1 ss. 57 to 59, 61, 62; 1979 c. 174; 1981 c. 20; 1981 c. 79 s. 17; 1983 a. 23, 27; 1983 a. 189 ss. 92 to 108, 329 (12); 1983 a. 510, 538; 1983 a. 544 ss. 13 to 46, 47 (1) (b); 1985 a. 29, 332; 1987 a. 27, 399; 1989 a. 31, 335, 336; 1991 a. 39, 269, 316; 1993 a. 16, 112, 184; 1997 a. 27, 237; 1999 a. 9, 83; 2001 a. 45, 102; 2003 a. 48; 2005 a. 25, 327, 441, 479; 2007 a. 11, 20, 130; 2009 a. 2 ss. 225 to 345, 389; 2009 a. 12 s. 18; 2009 a. 28 ss. 1830b to 1836h, 1844 to 1846; 2009 a. 276, 330; 2011 a. 208; 2013 a. 20 ss. 1475 to 1484, 1489 to 1491.

20 **SECTION 4.** 77.51 (13g) (e) of the statutes is created to read:

1 77.51 (13g) (e) Any person servicing, repairing, or installing equipment or
2 other tangible personal property, or items, property, or goods under s. 77.52 (1) (b),
3 (c), or (d), in this state.

4 **SECTION 5.** 77.51 (13g) (f) of the statutes is created to read:

5 77.51 (13g) (f) Any person delivering tangible personal property, or items or
6 property under s. 77.52 (1) (b) or (c), into this state in a vehicle owned by the business
7 that sells the property or items that are delivered.

 ***NOTE: The instructions indicate that property is delivered in a
 “company-owned” vehicle, but it is not clear what “company” DOR is referring to. I
 assume DOR means the business that sells the product being delivered. Please let me
 know if that is consistent with their intent.

 ***NOTE: I did not include the reference to digital goods under s. 77.52 (1) (d)
 because I assume that digital goods would not be physically delivered.

8 **SECTION 6.** 77.51 (13g) (g) of the statutes is created to read:

9 77.51 (13g) (g) Any person performing construction activities in this state.

10 **(END)**

Kreye, Joseph

From: Wimmer, Robert C - DOA <Robert.Wimmer@wisconsin.gov>
Sent: Wednesday, January 21, 2015 9:43 AM
To: Kreye, Joseph
Subject: Statutory Draft Revision to LRB-15-1211/P1 – BB0423

Mr. Kreye,

As I'm sure you come to expect from DOR they have some significant changes based on your comments. I have attached all of their requests below for your review. Thanks again for your help.

Bob

~~Page 2, line 4:~~

The current language refers to the property and the focus should be instead to where the lease is sourced.

"...or property under s. 77.52 (1) (b) or (c), ~~located in that~~ if the lease or rental is sourced to this state or under..."

~~Page 2, lines 14-15~~

A minor change and a substantive one. "The" appears unnecessary and "taxable" is inconsistent with court rulings that nexus exists without regard to whether the services provided are taxable in the state.

"... selling, delivering, or ~~the~~ taking of orders for any tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or ~~taxable~~ services or for the..."

Page 2, lines 23-24

First, "operated" is more consistent with our intent since a seller could lease the vehicles used to make deliveries in Wisconsin.

Second, in response to the first drafter's note, Joe Kreye's question is well taken. Company was the wrong choice, and we prefer "person" rather than "business." The sales tax chapters define "person," and the definition for "business" refers to activity rather than an entity. Hence, the revision below uses "person."

"...property under s. 77.52 (1) (b) or (c), into this state in a vehicle ~~owned~~ operated by the ~~business person~~ that sells the property or items that are delivered..."

New Section (not in current draft)

~~The bill should also have a new paragraph in (13g), perhaps (g), stating the following:~~

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

Drafter's Note #2

Correct assumption for digital goods.

From: Christopher.Connor@wisconsin.gov [mailto:Christopher.Connor@wisconsin.gov]
Sent: Wednesday, January 14, 2015 6:55 PM
To: Wimmer, Robert C - DOA
Cc: Ziegler, Paul - DOA; Grinde, Kirsten - DOA; Connor, Christopher B - DOA
Subject: Sales and use tax nexus creating activities

We have received an LRB draft for DOA Tracking Code: BB0423

LRB Draft Number: 15-1211/P1

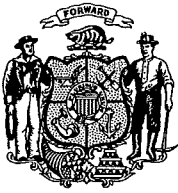
Drafting Attorney: Joseph T. Kreye
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

The document can be found in the Stat Language site on SharePoint.

Please Note: All new drafts are marked "OUT" and Final = "No" by default. Please update these fields in this record and related drafts as soon as you know if they are "IN" or Final.

Thanks,

Chris



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1211/P1
JK:cmh:rs

Handwritten initials and arrows

DOA:.....Wimmer, BB0423 – Sales and use tax nexus creating activities

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

m 1-21-15

1/23

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3 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
4 business in this state”, for purposes of the use tax, means includes any of the
5 following:

1 SECTION 2. 77.51 (13g) (a) of the statutes is amended to read:

2 77.51 (13g) (a) Any retailer owning any real property in this state or

3 (ab) Any retailer leasing or renting out any tangible personal property, or items

4 or property under s. 77.52 (1) (b) or (c), ~~located in that~~ is sourced to this state or under

5 s. 77.522.

if the lease or rental

6 (ac) Any retailer maintaining, occupying, or using, permanently or

7 temporarily, directly or indirectly, or through a subsidiary, or an agent, by whatever

8 ~~name called~~ or some other person, an office, place of distribution, sales or sample

9 room or place, warehouse or storage place, or other place of business in this state.

10 SECTION 3. 77.51 (13g) (b) of the statutes is amended to read:

11 77.51 (13g) (b) Any retailer having any representative, including a

12 manufacturer's representative, agent, salesperson, canvasser, or solicitor operating

13 in this state under the authority of the retailer or its subsidiary for the purpose of

14 selling, delivering, or ~~the~~ taking of orders for any tangible personal property, or

15 items, property, or goods under s. 77.52 (1) (b), (c), or (d), or ~~taxable~~ services or for the

16 purpose of performing any of the other activities described in this subsection.

17 SECTION 4. 77.51 (13g) (e) of the statutes is created to read:

18 77.51 (13g) (e) Any person servicing, repairing, or installing equipment or

19 other tangible personal property, or items, property, or goods under s. 77.52 (1) (b),

20 (c), or (d), in this state.

21 SECTION 5. 77.51 (13g) (f) of the statutes is created to read:

22 77.51 (13g) (f) Any person delivering tangible personal property, or items or

23 property under s. 77.52 (1) (b) or (c), into this state in a vehicle owned by the business

24 that sells the property or items that are delivered.

person

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****NOTE: The instructions indicate that property is delivered in a "company-owned" vehicle, but it is not clear what "company" DOR is referring to. I assume DOR means the business that sells the product being delivered. Please let me know if that is consistent with their intent.

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1

SECTION 6. 77.51 (13g) (g) of the statutes is created to read:

2

77.51 (13g) (g) Any person performing construction activities in this state.

3

(END)

Kreye, Joseph

From: Wimmer, Robert C - DOA <Robert.Wimmer@wisconsin.gov>
Sent: Saturday, January 24, 2015 11:36 AM
To: Kreye, Joseph
Subject: Revision to 15-1211/P2 BB0423

Joe,

More stuff from DOR. Some additional revisions to the Nexus activities draft. Thanks again for everything. Attached below:

- Our suggested addition under (13g). This language should be:
"Any retailer selling tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services for storage, use, or other consumption in this state, unless otherwise limited by federal law."
- We also think unnecessary text can be deleted on page 2, lines 22 and 23: Property under (1)(c) is leased property affixed to real property and therefore cannot be delivered in a vehicle. The language should be:
"...tangible personal property, or items ~~or property~~ under s. 77.52 (1) (b) ~~or (c)~~, into this state..."

Bob

From: Christopher.Connor@wisconsin.gov [mailto:Christopher.Connor@wisconsin.gov]
Sent: Thursday, January 22, 2015 1:25 PM
To: Wimmer, Robert C - DOA
Cc: Ziegler, Paul - DOA; Connor, Christopher B - DOA; Connor, Christopher B - DOA
Subject: Sales and use tax nexus creating activities

We have received an LRB draft for DOA Tracking Code: BB0423

LRB Draft Number: 15-1211/P2

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

The document can be found in the Stat Language site on SharePoint.

Please Note: All new drafts are marked "OUT" and Final = "No" by default. Please update these fields in this record and related drafts as soon as you know if they are "IN" or Final.

Thanks,

Chris



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1211/P2
JK:cmh&kjf:rs

P3

DOA:.....Wimmer, BB0423 - Sales and use tax nexus creating activities

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

1-27-15

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3. Any person performing construction activities in this state.

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

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

2 SECTION 1. 77.51 (13g) (intro.) of the statutes is amended to read:

3 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
 4 business in this state”, for purposes of the use tax, means includes any of the
 5 following:

SECTION 2

1 SECTION 2. 77.51 (13g) (a) of the statutes is amended to read:

2 77.51 (13g) (a) Any retailer owning any real property in this state ~~or~~

3 (ab) Any retailer leasing or renting out any tangible personal property, or items
4 or property under s. 77.52 (1) (b) or (c), ~~located in~~ if the lease or rental is sourced to
5 this state or under s. 77.522.

6 (ac) Any retailer maintaining, occupying, or using, permanently or
7 temporarily, directly or indirectly, or through a subsidiary, ~~or an agent, by whatever~~
8 ~~name called or some other person,~~ an office, place of distribution, sales or sample
9 room or place, warehouse or storage place, or other place of business in this state.

10 SECTION 3. 77.51 (13g) (b) of the statutes is amended to read:

11 77.51 (13g) (b) Any retailer having any representative, including a
12 manufacturer's representative, agent, salesperson, canvasser, or solicitor operating
13 in this state under the authority of the retailer or its subsidiary for the purpose of
14 selling, delivering, or the taking of orders for any tangible personal property, or
15 items, property, or goods under s. 77.52 (1) (b), (c), or (d), ~~or taxable services~~ or for the
16 purpose of performing any of the other activities described in this subsection.

17 SECTION 4. 77.51 (13g) (e) of the statutes is created to read:

18 77.51 (13g) (e) Any person servicing, repairing, or installing equipment or
19 other tangible personal property, or items, property, or goods under s. 77.52 (1) (b),
20 (c), or (d) ~~in~~ in this state.

21 SECTION 5. 77.51 (13g) (f) of the statutes is created to read:

22 77.51 (13g) (f) Any person delivering tangible personal property, or items ~~or~~
23 property under s. 77.52 (1) (b) ~~or (c),~~ into this state in a vehicle operated by the person
24 that sells the property or items that are delivered.

25 SECTION 6. 77.51 (13g) (g) of the statutes is created to read:



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1211/P3
JK:cmh&kjf:rs

DOA:.....Wimmer, BB0423 – Sales and use tax nexus creating activities
FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill modifies the definition of a “retailer engaged in business in this state” for use tax purposes, so that it includes the following:

1. Any person repairing or installing equipment in this state.
2. Any person delivering goods into this state in a vehicle owned by the business that is selling the goods.
3. Any person performing construction activities in this state.

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

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

2 **SECTION 1.** 77.51 (13g) (intro.) of the statutes is amended to read:

3 77.51 (13g) (intro.) Except as provided in sub. (13h), “retailer engaged in
4 business in this state”, for purposes of the use tax, means includes any of the
5 following:

1 **SECTION 2.** 77.51 (13g) (a) of the statutes is amended to read:

2 77.51 (13g) (a) Any retailer owning any real property in this state ~~or,~~

3 ~~(ab) Any retailer~~ leasing or renting out any tangible personal property, or items
4 or property under s. 77.52 (1) (b) or (c), ~~located in~~ if the lease or rental is sourced to
5 this state ~~or under s. 77.522.~~

6 ~~(ac) Any retailer~~ maintaining, occupying, or using, permanently or
7 temporarily, directly or indirectly, or through a subsidiary, ~~or an agent, by whatever~~
8 ~~name called or some other person,~~ an office, place of distribution, sales or sample
9 room or place, warehouse or storage place, or other place of business in this state.

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

11 77.51 (13g) (b) Any retailer having any representative, including a
12 manufacturer's representative, agent, salesperson, canvasser, or solicitor operating
13 in this state under the authority of the retailer or its subsidiary for the purpose of
14 selling, delivering, or the taking of orders for any tangible personal property, or
15 items, property, or goods under s. 77.52 (1) (b), (c), or (d), ~~or taxable services~~ or for the
16 purpose of performing any of the other activities described in this subsection.

17 **SECTION 4.** 77.51 (13g) (e) of the statutes is created to read:

18 77.51 (13g) (e) Any person servicing, repairing, or installing equipment or
19 other tangible personal property, or items, property, or goods under s. 77.52 (1) (b),
20 (c), or (d) in this state.

21 **SECTION 5.** 77.51 (13g) (f) of the statutes is created to read:

22 77.51 (13g) (f) Any person delivering tangible personal property or items under
23 s. 77.52 (1) (b) into this state in a vehicle operated by the person that sells the
24 property or items that are delivered.

25 **SECTION 6.** 77.51 (13g) (g) of the statutes is created to read:

1 77.51 **(13g)** (g) Any person performing construction activities in this state.

2 (END)