



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-0257/P4  
JK:kjf

DOA:.....Wimmer, BB0034 - Sales tax holiday in August

**FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**OTHER TAXATION**

Under this bill, for the two-day period beginning on the first Saturday in August and ending on the following Sunday, the sales of the following items are exempt from the sales tax and the use tax:

1. An item of clothing, not including clothing accessories, if the sales price of any single item is no more than \$75.
2. A computer purchased by the consumer for the consumer's personal use, if the sales price of the computer is no more than \$750.
3. School computer supplies, if the sales price of any single item is no more than \$250.
4. School supplies, if the sales price of any single item is no more than \$75.

The bill provides, however, that the exemption does not apply after 2018.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

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

**SECTION 1.** 77.52 (13) of the statutes is amended to read:

77.52 (13) For the purpose of the proper administration of this section and to prevent evasion of the sales tax it shall be presumed that all receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services is not a taxable sale at retail is upon the person who makes the sale unless that person takes from the purchaser an electronic or a paper certificate, in a manner prescribed by the department, to the effect that the property, item, good, or service is purchased for resale or is otherwise exempt, except that no certificate is required for the sale of tangible personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), and (52), and (64).

**SECTION 2.** 77.53 (10) of the statutes is amended to read:

77.53 (10) For the purpose of the proper administration of this section and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable services sold by any person for delivery in this state is sold for storage, use, or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless that person takes from the purchaser an electronic or paper certificate, in a manner prescribed

by department, to the effect that the property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise exempt from the tax, except that no certificate is required for the sale of tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services that are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), ~~and (52), and (64)~~.

**SECTION 3.** 77.54 (64) of the statutes is created to read:

77.54 (**64**) (a) In this subsection:

1. “Clothing” means any wearing apparel for humans that is suitable for general use, not including all of the following:

- a. Belt buckles sold separately.
- b. Costume masks sold separately.
- c. Patches and emblems sold separately.
- d. Sewing equipment and supplies, including knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles.
- e. Sewing materials that become part of clothing, including buttons, fabric, lace, thread, yarn, and zippers.
- f. Clothing accessories or equipment.
- g. Protective equipment.
- h. Sport or recreational equipment.

2. “Clothing accessories or equipment” means incidental items worn on a person or in conjunction with clothing, not including clothing, protective equipment, or sport or recreational equipment, but including all of the following:

- a. Briefcases.
- b. Cosmetics.

- c. Hair notions, including barrettes, hair bows, and hair nets.
- d. Handbags.
- e. Handkerchiefs.
- f. Jewelry.
- g. Nonprescription sunglasses.
- h. Umbrellas.
- i. Wallets.
- j. Watches.
- k. Wigs.
- L. Hair pieces.

3. “Eligible property” means an item that qualifies for exemption under this subsection.

4. “Layaway sale” means a transaction in which property is set aside for future delivery to a customer who makes a deposit, agrees to pay the balance of the sales price over time, and, at the end of the payment period, receives the property. An order is accepted for layaway by the seller when the seller removes the property from inventory or clearly identifies the property as sold to the purchaser.

5. “Protective equipment” means items for human wear that are designed to protect the wearer against injury or disease or to protect property or other persons from damage or injury. “Protective equipment” does not include items suitable for general use, clothing, clothing accessories or equipment, or sport or recreational equipment. “Protective equipment” includes:

- a. Breathing masks.
- b. Clean room apparel and equipment.
- c. Ear and hearing protectors.

- d. Face shields.
- e. Hard hats.
- f. Helmets.
- g. Paint or dust respirators.
- h. Protective gloves.
- i. Safety glasses and goggles.
- j. Safety belts.
- k. Tool belts.
- L. Welders gloves and masks.

6. “Rain check” means a seller allowing a purchaser to purchase an item at a certain price at a later time because the item was out-of-stock.

7. “School art supply” means any of the following items that are commonly used by a student in a course of study for artwork, but not including a school computer supply, school supply, or school instructional material:

- a. Clay and glazes.
- b. Acrylic, tempera, and oil paints.
- c. Paintbrushes.
- d. Sketch and drawing pads.
- e. Watercolors.

8. “School computer supply” means any of the following items that are commonly used by a student in a course of study in which a computer is used, but not including a school art supply, school supply, or school instructional material:

- a. Computer storage media, diskettes, and compact discs.
- b. Handheld electronic schedulers, not including cellular phones.
- c. Personal digital assistants, not including cellular phones.

d. Computer printers.

e. Printer supplies for computers, printer paper, and printer ink.

9. "School instructional material" means any of the following that is commonly used by a student in a course of study as a reference and to learn the subject being taught, but not including a school art supply, school computer supply, or school supply:

a. Reference books.

b. Reference maps and globes.

c. Textbooks.

d. Workbooks.

10. "School supply" means any of the following items that are commonly used by a student in a course of study, but not including a school art supply, school computer supply, or school instructional material:

a. Binders.

b. Book bags.

c. Calculators.

d. Cellophane tape.

e. Blackboard chalk.

f. Compasses.

g. Composition books.

h. Crayons.

i. Erasers.

j. Folders.

k. Glue, paste, and paste sticks.

L. Highlighters.

- m. Index cards.
- n. Index card boxes.
- o. Legal pads.
- p. Lunch boxes.
- q. Markers.
- r. Notebooks.
- s. Loose-leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper.
- t. Pencil boxes and other school supply boxes.
- u. Pencil sharpeners.
- v. Pencils.
- w. Pens.
- x. Protractors.
- y. Rulers.
- z. Scissors.
- za. Writing tablets.

11. "Sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity. "Sport or recreational equipment" does not include items suitable for general use, clothing, clothing accessories or equipment, or protective equipment. "Sport or recreational equipment" includes:

- a. Ballet and tap shoes.
- b. Athletic shoes with cleats or spikes.
- c. Gloves.
- d. Goggles.

- e. Hand and elbow guards.
- f. Life preservers and vests.
- g. Mouth guards.
- h. Roller skates.
- i. Ice skates.
- j. Shin guards.
- k. Shoulder pads.
- L. Ski boots.
- m. Waders.
- n. Wetsuits and fins.

(b) For the 2-day period beginning on the first Saturday in August and ending on the following Sunday, the sales price from the sale of and the storage, use, or other consumption of the following:

1. Clothing, if the sales price of any single item is no more than \$75.
2. A computer purchased by the consumer for the consumer's personal use, if the sales price of the computer is no more than \$750.
3. School computer supplies purchased by the consumer for the consumer's personal use, if the sales price of any single item is no more than \$250.
4. School supplies, if the sales price of any single item is no more than \$75.

(c) The exemption under this subsection shall be administered as follows:

1. A sale of eligible property under a layaway sale qualifies for exemption if either of the following applies:
  - a. Final payment on a layaway order is made by, and the property is given to, the purchaser during the exemption period.



b. The purchaser selects the property and the retailer accepts the order for the item during the exemption period, for immediate delivery upon full payment, even if delivery is made after the exemption period.

2. The bundled transaction provisions under subs. (51) and (52) and ss. 77.51 (1f) and (3pf) and 77.52 (20), (21), (22), and (23) apply in the same manner during the exemption period under this subsection as they apply in other periods.

3. A discount by the seller reduces the sales price of the property and the discounted sales price determines whether the sales price is within the price threshold in par. (b). A coupon that reduces the sales price is treated as a discount if the seller is not reimbursed for the coupon amount by a 3rd party. If a discount applies to the total amount paid by a purchaser rather than to the sales price of a particular item and the purchaser has purchased both eligible property and taxable property, the seller shall allocate the discount based on the total sales prices of the taxable property compared to the total sales prices of all property sold in that same transaction.

4. Products that are normally sold as a single unit shall be sold in that manner and may not be divided into multiple units and sold as individual items in order to obtain the exemption under this subsection.

5. Eligible property that is purchased during the exemption period with the use of a rain check qualifies for the exemption regardless of when the rain check was issued. Items purchased after the exemption period with the use of a rain check are not eligible property under this subsection even if the rain check was issued during the exemption period.

6. The procedure for an exchange with regard to the exemption under this subsection is as follows:

a. If a purchaser purchases an item of eligible property during the exemption period, but later exchanges the item for a similar item of eligible property, even if different in size, color, or another feature, no additional tax is due even if the exchange is made after the exemption period.

b. If a purchaser purchases an item of eligible property during the exemption period, but after the exemption period has ended, the purchaser returns the item and receives credit on the purchase of a different item, the appropriate sales tax is due on the sale of the different item.

c. If a purchaser purchases an item of eligible property before the exemption period, but during the exemption period the purchaser returns the item and receives credit on the purchase of a different item of eligible property, no sales tax is due on the sale of the new item if the new item is purchased during the exemption period.

7. Delivery charges, including shipping, handling, and service charges, are part of the sales price of eligible property. For the purpose of determining the price threshold under par. (b), if all the property in a shipment qualifies as eligible property and the sales price for each item in the shipment is within the price threshold under par. (b), the shipment is considered a sale of eligible property and the seller does not have to allocate the delivery, handling, or service charge to determine if the price threshold under par. (b) is exceeded. If the shipment includes eligible property and taxable property, including an item of eligible property with a sales price in excess of the price threshold, the seller shall allocate the delivery, handling, and service charge by using one of the following methods and shall apply the tax to the percentage of the delivery, handling, and service charge allocated to the taxable property:

a. A percentage based on the total sales price of the taxable property compared to the total sales price of all property in the shipment.

b. A percentage based on the total weight of the taxable property compared to the total weight of all property in the shipment.

8. Eligible property qualifies for exemption under this subsection if either of the following applies:

a. The item is both delivered to and paid for by the customer during the exemption period.

b. The purchaser orders and pays for the item and the seller accepts the order during the exemption period for immediate shipment, even if delivery is made after the exemption period. For purposes of this subdivision, the seller accepts an order when the seller has taken action to fill the order for immediate shipment. Actions to fill an order include placement of an in date stamp on a mail order or assignment of an order number to a telephone order. For purposes of this subdivision, an order is for immediate shipment when the customer does not request delayed shipment and regardless of whether the shipment is delayed because of a backlog of orders or because stock is currently unavailable, or on back order, by the seller.

9. For a 60-day period immediately after the exemption period under this subsection, when a purchaser returns an item that would qualify for the exemption, no credit for or refund of sales tax shall be given unless the purchaser provides a receipt or invoice that shows tax was paid or the seller has sufficient documentation to show that tax was paid on the specific item.

10. The time zone of the seller's location determines the authorized period for the exemption under this subsection when the retailer and purchaser are located in different time zones.

(d) This subsection does not apply in 2019 or in any year thereafter.

**SECTION 9438. Effective dates; Revenue.**

(1) SALES TAX HOLIDAY. The treatment of sections 77.52 (13), 77.53 (10), and 77.54 (64) of the statutes takes effect on May 1, 2017, except that if the publication date of the 2017-19 biennial budget act takes effect after May 1, 2017, the treatment of sections 77.52 (13), 77.53 (10), and 77.54 (64) of the statutes takes effect on January 1, 2018.

(END)