



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1342/P2
JK:jld

DOA:.....Wimmer, BB0188 - Eliminating the over-collecting fraud benefit

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

OTHER TAXATION

This bill provides that a seller who continues to collect sales tax erroneously on a product after receiving two or more written notices from DOR indicating that the product is not taxable is entitled to an adjustment or a refund of the tax collected only if the seller returns the tax and related interest to the buyers from whom the seller collected the tax or to DOR if the buyers cannot be located. A seller who fails to submit the tax and interest within the 90-day period is subject to a penalty equal to 25 percent of the tax and interest or, in the case of fraud, a penalty equal to the tax and interest. The penalty provided in the bill is the same as the penalty under current law for other instances when a seller claims an adjustment or a refund of sales tax, but fails to submit the tax and interest to the buyer or to DOR.

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:

SECTION 1. 77.51 (11d) of the statutes is amended to read:

77.51 **(11d)** For purposes of subs. (1ag), (1f), (3pf), and (9p) and ss. 77.52 (20) and (21), 77.522, ~~and 77.54 (51), (52), and (60), and 77.59 (5r)~~, “product” includes tangible personal property, and items, property, and goods under s. 77.52 (1) (b), (c), and (d), and services.

SECTION 2. 77.59 (5r) of the statutes is created to read:

77.59 (5r) A seller who continues to collect tax erroneously on a product after receiving 2 or more written notices from the department indicating that the product is not taxable is entitled to an adjustment or a refund of the tax collected only if the seller returns the tax and related interest to the buyers from whom the seller collected the tax. The seller shall submit the tax and related interest to the buyers, or to the department if the seller can not locate the buyers, no later than 90 days after the date of the adjustment or refund. If the seller does not submit the tax and related interest to the buyers or to the department before the end of the 90-day period, the seller is subject to the penalties described in sub. (5m).

(END)