



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #334

Nexus Creating Activities (General Fund Taxes -- Sales and Excise Taxes)

[LFB 2015-17 Budget Summary: Page 185, #1]

CURRENT LAW

Under current law, "retailer engaged in business in this state" for purposes of the use tax means, in part, any retailer owning any real property in this state or leasing or renting out any tangible personal property, or other taxable items or property, located in this state. If a retailer is engaged in business in this state (has "nexus"), it must collect and remit the sales or use tax on purchases by Wisconsin residents.

GOVERNOR

Under the bill, retailers leasing or renting out property in this state would have nexus if the lease or rental is sourced to this state rather than if the rented property is located in this state.

MODIFICATION

Modify section 2519 in the bill to read: "(ab) Any retailer leasing or renting out any tangible personal property, or items or property under s. 77.52 (1) (b) or (c), if such property or items are located in this state."

Explanation: This section makes a reference to the sourcing of a lease for property, rather than the property itself. The sourcing of the lease is largely immaterial; the location of the property is the controlling factor creating nexus. Therefore, the administration has requested a technical revision in the statutory language clarifying that the property location rather than the source of the lease controls the creation of nexus. This modification would leave this section of the statutes substantively unchanged as compared to current law.

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