



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #325

### **Streamlined Sales and Use Tax (General Fund Taxes -- General Sales and Use Tax)**

[LFB 2005-07 Budget Summary: Page 187, #1]

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#### **CURRENT LAW**

Under current law, Wisconsin imposes a 5% general sales tax on gross receipts from the sale and rental of personal property and selected services; counties have the option of imposing an additional 0.5% local sales tax. Other local sales taxes are imposed by professional football and baseball stadium districts, local exposition districts, and premier resort areas. The tax is imposed on the sale, lease, or rental of all tangible personal property not specifically exempted. This contrasts with the treatment of services, where the tax is imposed only on those services specifically listed in the statutes.

A use tax at the same rate is imposed on goods or services purchased out-of-state and used in Wisconsin, if the good or service would be taxable if purchased in Wisconsin. In computing the use tax liability, a credit is provided for sales tax paid in the state in which the good or service was purchased.

Although it is usually collected from the purchaser at the time of purchase, the sales tax is legally imposed on the gross receipts of the seller. In contrast, the use tax is imposed on the purchaser.

Sellers of taxable property and services must obtain a business tax registration certificate and a permit for each location from the Department of Revenue (DOR) [and may be required to make a security deposit not to exceed \$15,000] and periodically file a sales tax return and make payment of tax due. Returns and payment are generally due on a quarterly basis, but the Department may require larger retailers to report monthly.

Sellers may deduct a retailer's discount from taxes due, as compensation for administrative costs, equal to the greater of \$10 or 0.5% of the tax liability per reporting period, but not more than the amount of tax actually payable.

Under current federal law and U.S. Supreme Court decisions, states may not require sellers to collect and remit sales and use taxes unless the seller has a sufficient business connection (or "nexus") with the state, which is established by the seller having a physical presence in the state. In Wisconsin, a seller has nexus if it does any of the following: (a) owns real property in this state; (b) leases or rents out tangible personal property located in this state; (c) maintains, occupies, or uses a place of business in this state; (d) has any representative 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 or taxable services; (e) services, repairs, or installs equipment or other tangible personal property in Wisconsin; or (f) performs construction activities in this state.

Sellers that do not have nexus with Wisconsin can voluntarily agree to collect and remit the tax on their sales to Wisconsin residents. Such agreements also are permitted in other states. In Wisconsin and other states, if a seller does not have nexus and has not voluntarily agreed to collect the tax, the state imposes a use tax on taxable purchases from the seller by state residents. However, collecting the use tax from individual purchasers presents a very difficult enforcement issue. Multi-state retailers have long resisted efforts by the states, and legislation introduced in Congress, to compel use tax collection, citing the high costs and difficulty of complying with numerous, disparate state and local sales tax systems.

## **GOVERNOR**

Modify Wisconsin's sales and use tax laws to conform to the provisions of the multi-state Streamlined Sales and Use Tax (SSUT) Agreement. The bill would provide for certain modifications to Wisconsin's current tax base in order to comply with uniform definitions required under the Agreement. In addition, the bill would include provisions related to the treatment of drop-shipments, sourcing rules, agreements with direct marketers, retailers' compensation, amnesty, and additional issues related to conforming to the SSUT Agreement.

The main components of the SSUT provisions are described in the Appendix to this paper. In addition, a memorandum from the Legislative Fiscal Bureau to Members of the Legislature dated March 21, 2005, and entitled "AB 100: Streamlined Sales and Use Tax Provisions" provides a detailed description of the Governor's budget recommendations with respect to the SSUT proposal. This memorandum is available on the Legislative Fiscal Bureau's website at: [www.legis.state.wi.us/lfb](http://www.legis.state.wi.us/lfb) under "Recent Publications."

The provisions related to the SSUT Agreement would take effect and first apply on October 1, 2005. The administration has estimated that changes to the tax base under the proposal would reduce state sales tax revenues by \$3.1 million in 2005-06 and by \$2.6 million in 2006-07. The administration expects such revenue losses to be offset by estimated increases of \$15.3 million in 2005-06 and \$16.8 million in 2006-07 from out-of-state sellers that would

voluntarily agree to collect the use tax on sales to Wisconsin residents if these provisions are adopted. As a result, AB 100 projects net gains under the proposal of \$12.2 million in 2005-06 and \$14.2 million in 2006-07.

The Governor's proposal would also specify that any revenues in the 2005-07 biennium that are based on these provisions and are in excess of those estimated by DOR under the provisions would be used for a new supplemental general school aids appropriation. This provision is discussed under a separate paper under the Department of Public Instruction.

## **DISCUSSION POINTS**

1. The Streamlined Sales Tax Project (SSTP) is a multi-state effort begun by state revenue departments in March, 2000. The SSUT Agreement is the product of the SSTP. Governor Thompson authorized Wisconsin's participation in the SSTP in early 2000.

2. 2001 Wisconsin Act 16 (the 2001-03 biennial budget act) authorized Wisconsin to become an implementing state of the SSTP, which gave the state the right to approve and amend the SSUT Agreement. The Wisconsin Department of Revenue has been an active participant in the work of the SSTP and the development of the SSUT Agreement. The Agreement was adopted by the Project's 37 implementing states on November 12, 2002. A number of amendments to the Agreement have been subsequently approved, most recently on April 16, 2005.

3. The purpose of the SSUT Agreement is two-fold. First, the Agreement is an attempt to streamline the administration of state sales and use taxes, generally, in the hope that sellers will voluntarily agree to collect the tax on remote sales. Second, it is hoped that, as a result of the simplification under the Agreement, Congress will be persuaded to pass legislation permitting states to require additional out-of-state sellers to collect and remit taxes. Such results would help stem the increasing loss of state tax revenues due to unpaid use taxes on taxable purchases over the Internet and through other remote means, and would help provide equity between brick and mortar stores, where collection of state taxes is required, and other types of retailers. A number of individuals representing in-state businesses and business associations presented testimony in support of the SSUT proposal to the Joint Committee on Finance based on the issue of equity.

4. The SSUT provisions would not increase the legal obligation to pay taxes on taxable items sold to Wisconsin residents. Rather, the proposal is an attempt to enhance collection of the taxes imposed under current law. In fact, the net effect of the changes in the sales tax base under the SSUT provisions (which are needed to comply with the terms of the Agreement) was estimated by the administration as a reduction in state tax revenues of \$3.1 million in 2005-06 and \$2.6 million in 2006-07.

5. In recent years, the United States Census Bureau has issued quarterly and annual reports providing estimates of e-commerce and total retail sales in the U.S. In the most recent reports available, national e-commerce sales for 2004 were estimated at \$69.2 billion, which represents an increase of 23.5% over 2003. Total retail sales were estimated to have increased 7.8% for the same period.

A Census Bureau report comparing estimates of quarterly U.S. retail e-commerce sales as a percent of total quarterly retail sales from the fourth quarter of 1999 through the fourth quarter of 2004 attributes a steadily increasing proportion of all retail sales to e-commerce; whereas an estimated 0.6% of all U.S. retail sales in the fourth quarter of 1999 were from e-commerce, that percentage had risen to 2.0% in the fourth quarter of 2004. These estimates represent seasonally adjusted data.

As indicated by this data, an increasing proportion of retail sales is occurring through remote means. This shift is affecting states' abilities to enforce compliance with sales and use tax laws. A study in the Journal of State Taxation, published by CCH Incorporated in the Winter, 2005, issue refers to the growth in business-to-consumer e-commerce, mail order, and home shopping retail activity as a significant problem for the collection of state and local governments' sales and use tax revenue.

6. The first part of the two-fold purpose of the Agreement referred to above is to streamline the administration of state sales and use taxes in the hope that sellers will voluntarily agree to collect state taxes on remote sales. As part of this effort, states participating in the Agreement would be required to use certain uniform definitions in establishing their tax bases (states would not, however, be required to have identical tax bases). In addition, participating states would jointly certify sales tax service providers and automated systems to simplify tax administration. Retailers could contract with certified service providers to assume the seller's sales and use tax responsibilities or use certified automated systems for tax calculation and record-keeping purposes. Participating states would be required to maintain databases that retailers could use to determine whether a transaction is taxable and the appropriate tax rate. It is believed that these mechanisms would, to a large extent, eliminate the burden on remote sellers of collecting state sales or use taxes. These modifications are also intended to ease the administrative burden for traditional retailers.

7. In addition to making it easier for sellers to collect such taxes, the Agreement (to which AB 100 would conform) offers two additional inducements to remote sellers that do not have nexus with the state to voluntarily collect tax for participating states.

8. The first additional inducement is amnesty. Under the bill, a seller would not be liable for uncollected and unpaid state and local sales and use taxes (including penalties and interest) on previous sales made to Wisconsin purchasers if the seller registers with DOR to collect and remit state and local sales and use taxes on such sales in accordance with the SSUT Agreement. In order to receive amnesty, the seller would have to: (a) register within one year after the effective date of this state's participation in the Agreement; and (b) collect and remit state and local sales and use taxes on sales to purchasers in this state for at least three consecutive years after the date on which the seller registers.

Amnesty would not be available to: (a) sellers that were already registered with DOR during the year immediately preceding the effective date of Wisconsin's participation in the Agreement; (b) sellers that are being audited by DOR; or (c) sellers that have committed or been involved in a fraud or an intentional misrepresentation of a material fact.

In theory, any amount of tax for past years that the state did not receive as a result of the amnesty provisions would represent a loss in tax revenue to the state. However, as is generally the case with offers of amnesty related to tax provisions, the administration expects that any of such losses would be more than compensated for with higher tax collections in subsequent years.

9. The second additional inducement to remote sellers relates to monetary allowances. As described under "Current Law," sellers may currently deduct the retailer's discount (equal to 0.5% of the tax liability per reporting period, with a \$10 minimum) from taxes due as compensation for administrative costs. The bill would permit the following persons to retain a portion of sales and use taxes collected on retail sales in amounts determined by DOR and by contracts that DOR enters into pursuant to the Agreement: (a) certified service providers; (b) sellers that use a certified automated system; and (c) large, multi-state sellers that have proprietary computer systems that calculate the amount of tax owed to each taxing jurisdiction. Under the bill, there would be no statutory limit on the amount of monetary allowance paid to such persons. Also, the compensation to be paid could be paid to in-state sellers, out-of-state sellers that have nexus with Wisconsin, and out-of-state sellers that do not have nexus.

Under the terms of the current Agreement, sellers that use a certified service provider ("a" above) would not receive a retailer's discount, nor would such sellers receive a monetary allowance under the Agreement. Instead, the certified service providers with whom sellers contract would receive a base rate as determined by the Governing Board and through the contract process. In addition, for a period of up to 24 months, certified service providers would receive an extra amount based on the volume of business transacted on behalf of voluntary sellers for member states for which such sellers do not have a requirement to register to collect tax.

Sellers that use certified automated systems ("b" above) would receive the regular retailer's discount and, for a period not to exceed 24 months following the commencement of participation by a seller, additional amounts determined by the Governing Board. Sellers that have their own proprietary systems ("c" above) would receive the regular retailer's discount. In addition, non-nexus sellers that voluntarily agree to collect taxes under item "c" would receive the regular retailer's discount and also receive additional compensation for a period of up to 24 months.

The additional amounts are intended, in part, to reimburse sellers for the expense of implementing a technology model in order to collect taxes on remote sales. Sellers that do not meet the above criteria would continue to receive the regular 0.5% retailer's discount but would not receive any additional monetary allowance.

Through the provisions of AB 100 and under the terms of the Agreement, higher monetary allowances would be authorized than are currently permitted through the retailer's discount. With the exception of sellers utilizing certified service providers (as provided under the Agreement), the higher allowances would be limited to a period not to exceed 24 months. The fiscal effect of these provisions is unknown.

10. The second component of the two-fold purpose of the Agreement is the hope that Congress will be persuaded to pass legislation permitting states to require additional out-of-state sellers to collect and remit taxes. One reason that federal law prohibits states from requiring remote

sellers to collect state taxes is the burden that such requirements would place on sellers. The Agreement is intended to demonstrate, through the use of uniform definitions, databases maintained by the states, and the availability of certified service providers to assume a seller's sales and use tax responsibilities or certified automated systems to ease tax calculation and record-keeping, that requiring remote sellers to collect state taxes would not be onerous.

11. In keeping with the possibility that Congress would relax the nexus standards in response to anticipated results of the Agreement, AB 100 would modify the state's current nexus provisions to automatically conform to any changes in the federal nexus standards. At present, the statutes encode physical presence standards for a retailer to be considered "a retailer engaged in business in this state" (and, therefore, required to collect Wisconsin sales and use tax on Wisconsin sales).

12. DOR has requested a number of amendments to the SSUT provisions included in AB 100, most of which are technical in nature. The technical amendments would insert missing words where needed (such as "the" and "a") and would change certain terms in specific sections in order to be consistent with the Agreement (such as "gross receipts" to "sales price" or "purchase price," "alcohol" to "alcoholic," and "payment" to "pay permit"). The request would also change the term "all" to "any" in a definition of "transportation equipment" that subsequently lists the types of equipment that would fit under the definition. In addition, the Department has requested a number of modifications to the subchapter of Chapter 77 of the statutes on "County and Special District Sales and Use Taxes" to conform to changes in AB 100 affecting state sales and use taxes that should also be reflected in the sections on county and special district taxes.

13. Also, consistent with the Agreement, DOR requests an amendment to add a section under the statutes related to administrative provisions specifying that, when personally identifiable information is no longer needed by a certified service provider to administer its systems in order to perform a seller's sales and use tax functions, the state may not retain the personally identifiable information.

14. Finally, DOR requests an amendment to AB 100 to include a modification that was made to the SSUT Agreement on April 16, 2005. Currently, AB 100 includes provisions that conform to the Agreement prior to the April 16 amendment related to good faith effort standards for sellers with respect to exemption certificates. Under the April 16 modification to the Agreement, the relaxed good faith standard for sellers that receive an exemption certificate does not apply in certain circumstances. In addition, the modification expanded a relaxed good faith standard beyond sellers who obtain an exemption certificate at the time of purchase. These modifications to the Agreement, which DOR indicates should be included in the provisions under AB 100, are further described in the Appendix under "Exemption Certificates." Along with this modification, as described further in the Appendix, DOR requests a technical amendment to AB 100 to clarify the process for a customer to correct an alleged error in the amount of tax assessed.

15. Additional amendments to the SSUT Agreement on April 16, 2005, pertain to: (a) the apportionment of transactions involving software that will be available for use in multiple jurisdictions; (b) bundled transactions; (c) the inclusion of third-party reimbursements in the sales price; (d) telecommunications definitions; (e) drop shipments; and (f) a number of technical items.

Some of these modifications relate to issues that the SSTP had been working on for years and had finalized for inclusion in the Agreement. Member states have until January 1, 2008, to conform to the changes. The April 16, 2005, amendments are described in the Appendix in relation to the provisions under AB 100.

16. The Governor's proposal would bring Wisconsin's laws into conformance with the terms of the SSUT Agreement prior to the amendments to the Agreement described above. If the Governor's proposal (with the modifications recommended by DOR) were enacted into law, the state would be in compliance with the Agreement and could be approved as a full member state. However, state statutes would have to be further modified, prior to January 1, 2008, to conform to all of the April 16, 2005, modifications to the Agreement in order to remain in compliance after that date. This situation highlights the fact that, on an ongoing basis, if changes are made to the Agreement and a member state's statutes were not in conformance with the changes, the member state would have to modify state statutes in order to remain in compliance. This potential need to make future modifications to state laws to stay in compliance with the Agreement represents some loss of flexibility to the state. It should be noted, however, that after the Agreement takes effect, proposed amendments would require a three-fourths vote of the full member states serving on the Governing Board and could only be approved after all members had been allowed public comment.

17. As mentioned above, the estimates included in the Governor's budget proposal indicate that the changes to the tax base under the SSUT provisions would reduce state sales tax revenues by \$3.1 million in 2005-06 and by \$2.6 million in 2006-07, primarily due to expanded exemptions relating to food and durable medical equipment. However, these estimates should be modified to reflect the following: (a) the first year estimate was not pro-rated to reflect the proposed effective date of October 1, 2005; (b) the estimates include approximately \$2 million in each year as a result of voluntary agreements that have already been entered into with out-of-state retailers to collect Wisconsin sales and taxes. While some or all of the retailers referred to under "b" may have entered into the agreements in anticipation that the state will implement the SSUT proposal, the associated collections have already been included in the estimated tax revenues under current law. Therefore, these amounts should not be considered as potential effects of the proposal. Based on these modifications, it is estimated that the changes to the tax base under the SSUT proposal would reduce state sales tax revenues by \$4.0 million in 2005-06 and by \$5.0 million in 2006-07.

18. The administration expects these revenue losses to be offset by estimated increases of \$15.3 million in 2005-06 and \$16.8 million in 2006-07 from out-of-state sellers that would voluntarily agree to collect the use tax on sales to Wisconsin residents if these provisions are adopted. The administration's projections of income from voluntary collections are based on an estimation model developed by the State of Washington, which has a sales tax structure that has similarities to Wisconsin's. For example, both states have broad tax bases with exemptions for groceries, prescription drugs, manufacturing machinery and equipment, and pollution control equipment. The two states are also similar in terms of shares of national population and personal income (approximately 2% for each state). The estimate for Wisconsin was based on the Washington model after adjusting for differences between Washington's 6.5% sales and use tax rate and Wisconsin's 5.0% rate.

19. While expected receipts from voluntary compliance associated with adoption of the SSUT provisions cannot be forecast with precision, basing the estimate on the State of Washington's model appears to be reasonable. However, the first-year figure should be pro-rated to reflect an effective date of October 1, 2005. As a result, the first-year estimate of revenues under voluntary compliance with the SSUT provisions is reduced to \$11.3 million, rather than the \$15.3 million reflected in AB 100.

20. Based on the revised estimates for voluntary compliance and the modified projections of the effects of the base changes, it is estimated that the proposal would result in net increases in sales and use tax revenues of \$7.3 million in 2005-06 (\$11.3 million from anticipated revenues through voluntary compliance minus \$4.0 million from changes to the tax base) and \$11.8 million in 2006-07 (\$16.8 million from anticipated revenues through voluntary compliance less \$5.0 million from changes to the tax base).

21. In the aggregate, it is estimated that county and stadium sales and use tax collections would increase by \$580,000 in 2005-06 and by \$910,000 in 2006-07, and exposition district taxes would increase by approximately \$180,000 in the first year and \$250,000 in the second year. The sourcing provisions under the bill could also result in tax shifting across counties.

22. As discussed above, the component of these provisions that would allow a higher monetary allowance than the current retailer's discount to certified service providers and certain sellers could result in a decrease in tax revenues. At this time, it is not possible to reliably estimate the cost of the monetary allowance, because the rate of compensation and the number and size of sellers and certified service providers that would qualify are not known. However, it is possible that the cost of this provision would be significant. It is also possible that the passage of the bill, along with similar laws in other states, could result in a significant increase in sales and use tax collections from remote sales in future years. This could occur if the provisions resulted in additional retailers voluntarily agreeing to collect and remit use taxes to Wisconsin or if Congress is persuaded to pass federal legislation allowing states to require out-of-state sellers to collect and remit the tax.

23. If the SSUT provisions recommended by the Governor, along with the modifications requested by DOR, were not approved, Wisconsin's laws would be sufficiently out of compliance with the Agreement that it is not expected that Wisconsin could participate as either a full member or an associate member of the Agreement. In that case, if the Agreement took effect without Wisconsin's participation, remote vendors could still voluntarily collect taxes for Wisconsin. However, state law would not include the inducements to do so that would be available to remote vendors if the state were a full member of the Agreement (administrative simplicity, amnesty, and monetary allowances). Therefore, it appears unlikely that remote vendors would be inclined to enter into voluntary agreements to collect sales and use taxes for Wisconsin.

24. As noted, even if the SSUT provisions were approved and the state became a full member of the Agreement, it is already known that the state would have to make further modifications to state law prior to January 1, 2008, to conform to remain in compliance (based on amendments to the Agreement approved April 16, 2005, as described above and in the Appendix). In that event, while Wisconsin law would have been amended to initially conform to the Agreement, the state would not be able to participate in the shared databases of member states,



which is a major component of the Agreement that is intended to attract remote vendors. It is not known if any remote vendors collecting taxes on behalf of participating states would continue to do so for a state that ceased to be a participating state.

25. In addition, it should be noted that a number of retailers have already entered into voluntary agreements to collect Wisconsin sales and use taxes in anticipation of the SSUT Agreement. DOR estimates collections of \$2.2 million in the first year and \$2.3 million in the second year under such agreements. These figures are not included in the revised estimate of the fiscal effect of the SSUT proposal, as they are already included in current law estimates of sales tax revenues. However, if the SSUT proposal were not approved, the Department believes these retailers could back out of the voluntary agreements. In that event, depending on the extent to which current agreements were ended, there could be losses of up to \$2.2 million and \$2.3 million in tax revenue for 2005-06 and 2006-07, respectively.

**ALTERNATIVES**

1. Approve the Governor's proposal with the following modifications requested by DOR: (a) various technical amendments (described under Discussion Points #12 and #14); (b) amendments to the subchapter of Chapter 77 of the statutes on "County and Special District Sales and Use Taxes" to provide consistency with the changes under the bill affecting state sales and use taxes; (c) an amendment to prohibit the state from retaining personally identifiable information when it is not needed by a certified service provider to perform a seller's sales and use tax functions; and (d) amendments to the good faith standards for sellers that receive exemption certificates in keeping with recent amendments to the Agreement. In addition, reestimate revenues under the provisions at \$7.3 million in 2005-06 and \$11.8 million in 2006-07. Compared to the bill, the figures are \$4.9 million lower in the first year and \$2.4 million lower in the second year, for a total reduction of \$7.3 million.

<u>Alternative 1</u>	<u>GPR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	- \$7,300,000

2. Maintain current law.

<u>Alternative 2</u>	<u>GPR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	- \$26,400,000

Prepared by: Faith Russell



## APPENDIX

### Summary of the Streamlined Sales and Use Tax Provisions under AB 100 and Description of Recent Amendments to the SSUT Agreement

#### Background

Under current federal law and U.S. Supreme Court decisions, states may not require sellers to collect and remit sales and use taxes unless the seller has a sufficient business connection (or "nexus") with the state, which is established by the seller having a physical presence in the state. In Wisconsin, a seller has nexus if it does any of the following: (a) owns real property in this state; (b) leases or rents out tangible personal property located in this state; (c) maintains, occupies, or uses a place of business in this state; (d) has any representative 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 or taxable services; (e) services, repairs, or installs equipment or other tangible personal property in Wisconsin; or (f) performs construction activities in this state.

Sellers that do not have nexus with Wisconsin can voluntarily agree to collect and remit the tax on their sales to Wisconsin residents. Such agreements also are permitted in other states. In Wisconsin and other states, if a seller does not have nexus and has not voluntarily agreed to collect the tax, the state imposes a use tax on taxable purchases from the seller by state residents. However, collecting the use tax from individual purchasers presents a very difficult enforcement issue. Multi-state retailers have long resisted efforts by the states, and legislation introduced in Congress, to compel use tax collection, citing the high costs and difficulty of complying with numerous, disparate state and local sales tax systems.

One of the principal aims of the SSUT Agreement is to make sales and use taxes more uniform across states and local taxing jurisdictions. In addition, in order to streamline administration of the tax, states participating in the Agreement would jointly certify sales tax service providers and automated systems. Retailers could contract with certified service providers to assume the seller's sales and use tax responsibilities or use certified automated systems for tax calculation and record-keeping purposes. Participating states would also be required to maintain databases that retailers could use to determine whether a transaction is taxable and the appropriate tax rate. The Agreement also includes an "amnesty" provision that would forgive back taxes for sellers that agree to collect and remit taxes. It is hoped that these modifications will encourage additional sellers to voluntarily agree to collect the tax or persuade Congress to pass legislation permitting states to require additional out-of-state sellers to collect and remit taxes. It is also believed that the provisions of the Agreement will improve administration of the tax for in-state sellers.

The SSUT Agreement is the product of the Streamlined Sales Tax Project, a multi-state effort begun by state revenue departments in March, 2000. Representatives of state legislatures, local governments, and business organizations have also been active participants in the Project.

Currently 43 states (including Wisconsin) and the District of Columbia are voting members in the Project, which means that the legislatures of these states have enacted enabling legislation or their state's executive has authorized their participation. Governor Thompson authorized Wisconsin's initial participation in early 2000. Under 2001 Wisconsin Act 16 (the 2001-03 biennial budget act), Wisconsin became an implementing state, with the right to approve and amend the SSUT Agreement. The SSUT Agreement was adopted by the Project's implementing states on November 12, 2002. Several amendments to the Agreement have been subsequently approved, most recently on April 16, 2005. The next step is for individual states to enact statutory modifications to bring their sales and use tax systems into conformance with the terms of the Agreement, which is the purpose of the provisions recommended by the Governor.

As originally adopted, the Agreement was to have taken effect and become binding on the first day of the following calendar quarter after at least 10 states comprising at least 20% of the total population of all states imposing a state sales tax had petitioned for membership and whose laws, rules, and policies had been found to be substantially compliant with each requirement of the Agreement by the Agreement's Governing Board. The 10-state threshold has been met, and until recently, it appeared that the 20% threshold would be met on July 1, 2005, when the conformity provisions were set to go into effect in several states, which would have allowed the Agreement to take effect October 1, 2005. However, some states recently delayed the effective date of the conformity provisions, which made it appear as if the expected effective date would not be achieved.

In response, the implementing states amended the Agreement to create two tiers of membership for states, including full membership and associate membership. Full members are those states that have satisfied the conditions for membership described above. Associate membership has two categories. The first includes any state found to have enacted all necessary conforming provisions, but the provisions are not yet in effect. If the statutes or rules take effect on or before January 1, 2008, the state will automatically become a full member upon the effective date of those provisions. The second category includes any state found to have achieved substantial compliance with the Agreement as a whole but not necessarily with each provision and there is a reasonable expectation that the state will achieve full compliance by January 1, 2008. States in this category will be required to re-petition for full membership. No associated members will be permitted after 2007.

Associate members will be counted for purposes of the thresholds that bring the Agreement into effect. Therefore, if enough states are found to be full members or associate members on July 1, 2005, the Agreement will take effect on October 1, 2005, as planned. Until the 10 states/20% thresholds are met without the need to count associate members, the entire group of implementing states will retain the authority to amend the Agreement. However, once the threshold has been met, the Governing Board of the SSUT Agreement will take over the responsibility. Associate members will not be able to vote on amendments or interpretations of the Agreement after this point.

Remote sellers that register and volunteer to collect tax in return for various advantages offered under the SSUT Agreement will have to agree to collect and remit sales and use taxes for

all taxable sales into full member states. However, while such sellers may volunteer to collect tax in one or more associate member states, a seller will not be required to collect tax on such sales.

As of the time of this writing, the following 17 states had petitioned for membership in the SSUT Agreement and had passed legislation that is believed to be either in conformance or close to conformance with the terms of the Agreement: Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, and Wyoming. It is anticipated that, by July 1, 2005, the certification process will show that the standards for the minimum number of states and minimum percentage of population in those states (based on the April 16, 2005, amendments to the Agreement that created the two-tier membership structure) have been met, in which case the SSUT Agreement would take effect on October 1, 2005.

In addition to the two-tier membership structure, a number of other amendments to the Agreement were approved at the April 16, 2005 meeting of the implementing states of the SSTEP. A number of the amendments were technical in nature. In addition, modifications were made in the following areas: (a) the sourcing of business software intended for multiple points of use; (b) the definition bundled transactions (transactions including both taxable and nontaxable items); (c) drop shipments; (d) buydowns; (e) telecommunications definitions and the treatment of bundled telecommunications services; and (f) the administration of exemptions. Item "c", drop shipments, is consistent with the provisions under AB 100. Item "f", administration of exemptions, is one of DOR's recommended amendments to the bill. The remaining amendments to the Agreement are not included in the SSUT provisions under AB 100. However, as amended, member states do not have to conform to the new provisions until January 1, 2008. According to DOR, with the exception of item "a," the sourcing of business software intended for multiple points of use, the changes under the remaining amendments are not substantive. The amendment under "a" would affect the sourcing of the tax on business software intended for concurrent use at multiple points, but the net fiscal effect is not expected to be significant.

The following summary of the SSUT provisions in the budget bill highlights the most significant changes to state law needed to conform state sales and use tax statutes to the provisions of the Agreement. In addition, differences between the bill and the recent amendments to the Agreement are noted. The effective and initial applicability dates of the SSUT provisions under AB 100 would be October 1, 2005. All of the proposed statutory changes would take effect on that date, regardless of when, or whether, the SSUT Agreement takes effect.

### **Duties and Responsibilities of the Department of Revenue**

Under 2001 Act 16, the Department of Revenue was authorized to enter into the Streamlined Sales and Use Tax Agreement to simplify and modernize sales and use tax administration in order to reduce the tax compliance burden for all sellers and all types of commerce. DOR may promulgate rules to administer the SSUT provisions, procure goods and services jointly with other states that are signatories to the Agreement in furtherance of the Agreement, and take other actions reasonably required to implement these provisions.

Current law also authorizes the Department to act jointly with other states that are signatories to the Agreement to establish standards for the certification of certified service providers and certified automated systems and to establish performance standards for multi-state sellers. A "certified service provider" is an agent that is certified by the signatory states to perform all of a seller's sales tax and use tax functions related to the seller's retail sales. A "certified automated system" is software that is certified by the signatory states and that is used to calculate state and local sales and use taxes on transactions by each appropriate jurisdiction, to determine the amount of tax to remit to the appropriate state, and to maintain a record of the transaction.

Current law provides that a certified service provider is the agent of the seller with whom the provider has contracted and is liable for the sales and use taxes that are due the state on all sales transactions that the certified service provider processes for a seller, except in cases of fraud or misrepresentation by the seller. A person that provides a certified automated system is responsible for the system's proper functioning and is liable to this state for tax underpayments that are attributable to errors in the system's functioning. A seller that uses a certified automated system is responsible and liable to this state for reporting and remitting sales and use tax. A seller that has a proprietary system for determining the amount of tax due and that has signed an agreement with the signatory states establishing a performance standard for the system is liable for the system's failure to meet the performance standard.

Current state law also provides that no law of this state, or the application of such law, may be declared invalid on the ground that the law, or the application of such law, is inconsistent with the SSUT Agreement. No provision of the Agreement in whole or in part invalidates or amends any law of this state and the state becoming a signatory to the Agreement does not amend or modify any law of this state.

Under the bill, DOR would be authorized to certify compliance with the SSUT Agreement and, pursuant to the Agreement, certify certified service providers and certified automated systems. The Department would also be authorized to maintain databases that indicate: (a) whether specific items are taxable or nontaxable; and (b) tax rates, taxing jurisdiction boundaries, and zip code or address assignments related to the administration of state and local taxes imposed in Wisconsin. These databases would have to be accessible to sellers and certified service providers.

The bill would also specifically permit DOR to audit (or authorize others to audit) sellers and certified service providers who are registered with the Department pursuant to the SSUT Agreement.

### **Modifications to the Tax Base**

The sales tax base is the array of goods, services, and transactions that are subject to the tax. The SSUT Agreement does not require participating states to have identical tax bases. However, the Agreement does require states to use uniform definitions for certain items in establishing their tax bases. The bill includes the following changes to the current sales and use tax base in Wisconsin:

- Most types of food sales would be treated the same as under current law. However, some food sales that are now exempt would become taxable and certain sales that are now taxable would become exempt. These modifications are listed in Attachment 1.

- The bill would expand the types of medical equipment that are exempt from tax to include items such as hospital beds, patient lifts, and I.V. stands that are purchased for in-home use. A more detailed list of items that would become exempt under this provision is presented in Attachment 2.

- The bill would eliminate the current exemption for antiembolism elastic hose.

- The current exemptions for equipment used in the treatment of diabetes and equipment used to administer oxygen would be limited to equipment purchased for in-home use.

- The bill would repeal the current exemption for cloth diapers.

- Certain currently exempt sales of pre-written computer software that is customized by the vendor for a specific purchaser would become taxable.

- The tax would be imposed on the entire sales price of products comprised of exempt items that are bundled with taxable items by the seller (such as a fruit basket that includes candy, or a cheese tray that includes a cutting board and knife). Currently, the seller is not required to pay tax on the value of the nontaxable items. [The April 16, 2005, amendment to the SSUT Agreement reversed this general treatment. Instead, a definition of "bundled transactions" was added. However, with certain exceptions, the amended Agreement is silent as to the tax treatment of bundled items. Therefore, states would generally have flexibility in how to apply taxes to such items (whether to tax the whole bundle, exempt the whole bundle, or allow unbundling to determine the appropriate tax). In addition, member states are not required to treat all bundled transactions the same way. The exception to this flexible treatment of how taxes are imposed on bundled transactions is that the amended Agreement requires a state to allow a provider of specified services to establish from its books and records the portion of the total price of a transaction that is attributable to products that are nontaxable (or subject to tax at a lower rate), and thereby avoid having that portion taxed (or taxed at the highest applicable rate). The specified services include: telecommunication services; ancillary services associated with telecommunications services; Internet access services; and audio or video programming service. Member states have until January 1, 2008, to conform to this amendment.]

- Under the bill, if tangible personal property (such as a construction crane) is provided along with an operator, the transaction would be considered a service (which may or may not be taxable) rather than a lease (which generally is taxable) as long as the operator is necessary for the property to perform in the manner for which it is designed and the operator does more than maintain, inspect, or set up the property. Under current law, the determination of whether such transactions are a lease of property or a service depends upon the amount of control maintained by the operator and the degree of responsibility for completion of the work assumed by the operator.

- Purchases of items (such as catalogs, telephone directories, or candy) that are sold by an out-of-state seller to a Wisconsin purchaser (or to an out-of-state purchaser registered to collect Wisconsin taxes) and distributed directly by the seller by common carrier or U.S. mail to Wisconsin residents without the purchaser ever taking possession of the items would become taxable to the purchaser regardless of whether or not the out-of-state seller has nexus with Wisconsin. Under current law, as interpreted by the courts, such sales are not subject to the use tax if the seller is located out-of-state and does not have nexus with Wisconsin and is not registered to collect taxes for the state.

According to DOR, all of these modifications are required in order to conform to the terms of the SSUT Agreement [with the exception of the April 16, 2005 amendments to the Agreement, to which, as noted, member states would have until January 1, 2008, to conform.]

### **Definition of "Retailer Engaged in Business in This State"**

The bill would modify the definition of "retailer engaged in business in this state" in order to automatically conform to any future federal changes that would lessen the physical presence standards for requiring a retailer to collect Wisconsin sales and use taxes.

### **Non-Exempt Use of Property After Purchase**

Currently, if a purchaser certifies that the items purchased will be used in a manner entitling the sale to be exempt from tax and the purchaser subsequently uses the property in some other manner, the purchaser is liable for payment of the sales tax. The tax is measured by the sales price of the property to the purchaser unless the taxable use first occurs more than six months after the sale. In that case, the purchaser may base the tax either on that sales price or on the fair market value of the property at the time the taxable use first occurs. The bill would eliminate the option to base the tax on fair market value if the taxable use first occurs more than six months after the purchase, so that the tax would always be based on the sales price to the purchaser.

### **Treatment of Drop Shipments**

A "drop shipment" occurs when a purchaser orders an item from a retailer and the retailer arranges for a manufacturer or distributor (the drop shipper) to deliver the item to the purchaser directly, without the retailer taking possession. A drop shipment may involve a drop shipper making a delivery to a Wisconsin purchaser on behalf of an out-of-state retailer who is not registered to collect Wisconsin sales or use tax. Under current law, a Wisconsin manufacturer or distributor making a drop shipment (or an out-of-state manufacturer or distributor registered with the state) is required to collect the sales tax from the purchaser on such transactions. Under the bill, such manufacturers and distributors would no longer be liable for the sales tax on drop-shipments to Wisconsin purchasers. Instead, the purchaser would be liable for use tax.



## **Sourcing**

The bill includes detailed provisions for determining the taxing jurisdiction in which a sale or lease of property or services occurs (sourcing). In general, the sourcing rules under these provisions are destination-based, which is consistent with the current sourcing provisions in Wisconsin. However, the Department of Revenue has identified several situations where the SSUT provisions would differ from current law and practice. The most significant change would be to relieve sellers (printers) of direct mail of the burden of determining the destination of each piece of mail for tax purposes if the purchaser does not provide this information. Other sourcing changes involve towing services, admissions, certain sales by florists, leases, electronically delivered software and services concurrently used in multiple locations, and collect telecommunications services.

## **Agreements with Direct Marketers; Retailer's Compensation and Monetary Allowances**

As described under "Current Law," sellers may currently deduct the retailer's discount (equal to 0.5% of the tax liability per reporting period, with a \$10 minimum) from taxes due as compensation for administrative costs. The bill would repeal certain provisions under current law regarding agreements with direct marketers (which have never been utilized) and, instead, permit the following persons to retain a portion of sales and use taxes collected on retail sales in amounts determined by DOR and by contracts that DOR enters into pursuant to the Agreement: (a) certified service providers; (b) sellers that use a certified automated system; and (c) large, multi-state sellers that have proprietary systems that calculate the amount of tax owed to each taxing jurisdiction. Under the bill, there would be no statutory limit on the amount of monetary allowance paid to such persons. Also, the compensation to be paid could be paid to in-state sellers, out-of-state sellers that have nexus with Wisconsin, and out-of-state sellers that do not have nexus.

Under the terms of the current Agreement, sellers under "a" would not receive a retailer's discount, nor would such sellers receive a monetary allowance under the Agreement. Instead, the certified service providers with whom sellers contract would receive a base rate as determined by the Agreement's Governing Board and through the contract process. In addition, for a period of up to 24 months, certified service providers would receive an extra amount related to the volume of business transacted on behalf of voluntary sellers for member states for which such sellers do not have a requirement to register to collect tax.

Sellers described under "b" would receive the regular retailer's discount and, for a period not to exceed 24 months following the commencement of participation by a seller, additional amounts determined by the Governing Board. Sellers described under "c" would receive the regular retailer's discount. In addition, non-nexus sellers that voluntarily agree to collect taxes under item "c" would receive the regular retailer's discount and also receive additional compensation for a period of up to 24 months.

The additional amounts are intended, in part, to reimburse sellers for the expense of implementing a technology model in order to collect taxes on remote sales. Sellers that do not meet the above criteria would continue to receive the regular 0.5% retailer's discount but would not receive any additional monetary allowance.

Through the provisions of AB 100 and under the terms of the current Agreement, higher monetary allowances would be authorized than are currently permitted through the retailer's discount. With the exception of sellers utilizing certified service providers (as provided under the Agreement), the higher allowances would be limited to a period not to exceed 24 months. The fiscal effect of these provisions is unknown.

### **"Amnesty" Provision**

Under the bill, a seller would not be liable for uncollected and unpaid state and local sales and use taxes (including penalties and interest) on previous sales made to Wisconsin purchasers if the seller registers with DOR to collect and remit state and local sales and use taxes on such sales in accordance with the SSUT Agreement. In order to receive amnesty, the seller would have to: (a) register within one year after the effective date of this state's participation in the Agreement; and (b) collect and remit state and local sales and use taxes on sales to purchasers in this state for at least three consecutive years after the date on which the seller registers.

The amnesty would not be available to: (a) sellers that were already registered with DOR during the year immediately preceding the effective date of Wisconsin's participation in the Agreement; (b) sellers that are being audited by DOR; or (c) sellers that have committed or been involved in a fraud or an intentional misrepresentation of a material fact.

### **Erroneous Collection of Tax**

The bill would establish a procedure to settle disputes between purchasers and sellers regarding erroneous collections of sales or use tax. Under this procedure, customers who believe that the amount of sales or use tax assessed on a sale is erroneous could send a written notice to the seller requesting that the alleged error be corrected. The seller would have to review its records within 60 days to determine the validity of the customer's claim. If the review indicates that there is no error as alleged, the seller would have to explain the findings of the review in writing to the customer. If the review indicates that there is an error as alleged, the seller would have to correct the error and refund the amount of any tax collected erroneously, along with the related interest. A customer could take no other action, or commence any action, to correct an alleged error in the amount of sales or use tax assessed unless the customer has exhausted his or her remedies through this review process. [DOR has requested a technical amendment to clarify that a customer could take no other action, or commence and action, against a seller to correct an alleged error.]

Under current law, such disputes are handled through the court system. The procedure under the bill is intended to provide a more efficient dispute resolution process.

### **Rounding**

The bill would modify the rounding rules used by retailers so that sellers would be allowed to compute the amount of tax to be collected based on each invoice (including numerous items) or on each item included in the sale. Under current law, the amount of tax collected must be calculated by multiplying the tax rate by the total transaction price, not by the prices of

individual items. These provisions do not affect the amount of tax due to the state from the retailer, only how the retailer may calculate the amount of tax collected from purchasers.

### **SSUT Agreement Agents**

The bill would authorize sellers to appoint an agent to represent the seller before the states that are signatories to the SSUT Agreement. Under these provisions, sellers could designate such agents to: (a) register with DOR for a business tax registration certificate; (b) file an application with DOR for a permit for each place of operations; and (c) remit taxes and file returns under the sales and use tax statutes.

### **Business Tax Registration**

Under current law, any person who is not otherwise required to collect Wisconsin sales and use taxes (because of a lack of nexus) and who makes sales to persons within this state of taxable property or services may register with DOR to voluntarily collect the tax. Sellers who register with DOR must obtain a business tax registration certificate, which authorizes and requires the person to collect, report, and remit the state use tax. The bill would specify that registration with DOR under this provision could not be used as a factor in determining whether the seller has nexus with this state for any tax at any time.

In addition, the bill would specify that registration under the above provision would authorize and require the retailer to collect, report, and remit local use taxes, and local jurisdictions would be specifically authorized to impose the tax on such sellers. Under current law, voluntary registration only obligates out-of-state retailers to collect state use taxes, not local taxes.

The bill would also authorize DOR to waive the business tax registration fee for sellers that voluntarily register to collect sales and use taxes.

### **Exemption Certificates**

Under current law, it is presumed that all of a seller's receipts are subject to the sales and use tax until the contrary is established. The burden of proving that a sale is not taxable is upon the seller unless the purchaser provides a certificate to the effect that the purchase is exempt. The exemption certificate must be taken by the seller in good faith. Under the bill, an exemption certificate would relieve the seller from the burden of proof as long as it is taken at the time of purchase. The "good faith" requirement would be deleted. However, an exemption certificate would not relieve the seller of the burden of proof if the sale is sourced to the seller's location in this state and the claimed exemption is for an item not exempted under the state's sales and use tax provisions or if the seller fraudulently fails to collect sales tax or solicits the purchaser to claim an unlawful exemption.

Under current law, no certificate is required for certain types of tax-exempt livestock sales. The bill would repeal this provision so that an exemption certificate would be required for such sales.

[Under the April 16, 2005, amendment to the Agreement, the relaxed good faith standard for sellers that receive an exemption certificate does not apply to a seller who accepts: (a) an entity-based exemption that is not available in the state in which the seller is located and its unavailability is clearly indicated by the state; or (b) a multiple-points-of-use exemption for tangible personal property other than software. The amendment also expanded the relaxed good faith standard beyond sellers who obtain an exemption certificate at the time of purchase. A state must relieve a seller of liability if the seller obtains a fully completed exemption certificate, or captures the relevant data elements, within 90 days after the date of sale. In addition, a seller may, within 120 days of a state's request for substantiation, prove that a transaction was not taxable by other means or obtain a fully completed exemption certificate from the purchaser taken in good faith. A state must also relieve a seller of the tax otherwise applicable if the seller obtains a blanket exemption certificate for a purchaser with which the seller has a recurring business relationship. Member states have until January 1, 2008, to conform to these amendments. DOR recommends amending AB 100 to conform state law to this provision.]

### **Program for Children and Families**

Under current law, the Department of Health and Family Services has a GPR appropriation for grants to counties for services for children and families. The amount of the appropriation is equal to one-eleventh of the amount of sales tax collected from out-of-state direct marketers who have entered into agreements with DOR, under which the sellers receive compensation over and above the normal 0.5% retailer's discount. The bill would repeal this appropriation and the statutory language relating to the grants. The program was created in 1999 Wisconsin Act 9. To date, no funding has been provided for the program because no agreements with direct marketers have been entered into.

### **Other SSUT Provisions Under AB 100**

The bill would eliminate specific requirements relating to the content of sales and use tax returns and, instead, provide that the return must show the amount of taxes due for the period covered by the return and such additional information as DOR deems necessary. A similar modification would be made with respect to reports of county and special use taxes. These modifications are intended to provide DOR with flexibility to simplify sales tax returns and make the returns conform to standards required under the SSUT Agreement.

Under current law, in order to protect the revenue of the state, DOR may require sellers to provide security in an amount determined by the Department, but not more than \$15,000. The bill would authorize DOR to require a larger amount of security from certified service providers.

The bill would restrict the use of personally identifiable information obtained by certified service providers from purchasers, and require certified service providers to provide consumers clear and conspicuous notice of their practices regarding such information. Certified service providers would also have to provide sufficient technical, physical, and administrative safeguards to protect personally identifiable information from unauthorized access and disclosure.

The bill would require additional notice (120 days) of repeal of a county sales tax or cessation of local baseball park or football stadium taxes.

### **Other Amendments to the SSUT Agreement Not Included Under AB 100**

Two of the April 16, 2005, amendments to the SSUT Agreement referred to above have not yet been described. The first is an amendment to the definition of "sales price," which was amended to clarify when "sales price" includes consideration received by a seller from third parties (buydowns or manufacturer's coupons). In addition, the amendment permits states to exclude from "sales price" either employee discounts that are reimbursed by a third party on sales of motor vehicles, or manufacturer rebates on motor vehicles, or both. The second amendment that has not yet been described relates to telecommunications definitions. Definitions were provided for specific telecommunications services. The definition of "sales price" was also amended to allow states to exclude a separately stated charge for the installation, connection, change, or initiation of telecommunications service. Finally the telecommunications sourcing provisions were amended to account for a new definition of "prepaid wireless calling service." Member states have until January 1, 2008, to conform their laws to these amendments.



## ATTACHMENT 1

### Modifications Relating to Food and Beverages

Food Item	Current Treatment	Proposed Treatment
Bakery products sold by bakeries and grocery stores	Exempt, unless for consumption on seller's premises	Exempt, unless provided with utensils (such as plates, forks, knives)
Bottled tea, sweetened	Exempt	Taxable
Bottled water, carbonated, non-sweetened	Taxable	Exempt
Candy containing flour (such as KitKat, Twix, and Licorice)	Taxable	Exempt
Chocolate Chips	Exempt	Taxable
Deli combination platters prepared by seller	Exempt, unless a meal or sandwich	Exempt if sold by weight or volume
Deli food sold by weight (such as potato salad, fruit salad, sliced deli meat)	Exempt, unless for consumption on the seller's premises	Exempt unless provided with utensils (such as plates, forks, knives)
Deli salad bar (self-service, utensils provided)	Taxable, if for on-premises consumption	Taxable
Frozen fruit juice	Exempt, except if less than 100% juice	Exempt
Ice cream novelties (such as ice cream cone, Popsicle)	Taxable	Exempt, unless prepared by retailer and retailer is not primarily a manufacturer and not sold by weight or volume
Liquid 51% - 99% fruit juice	Taxable	Exempt

<b>Food Item</b>	<b>Current Treatment</b>	<b>Proposed Treatment</b>
Manufactured food sold at manufacturer's (seller's) outlet (for consumption off the premises)	Exempt, unless sandwich, ready-to-eat meal, candy, soft drink, dietary supplement, popcorn, or alcohol beverage	Exempt, unless utensils provided, candy, soft drink, dietary supplement, or alcoholic beverage
Marshmallows	Exempt	Taxable
Nonalcoholic beer	Taxable	Exempt, unless sweetened
Nonalcoholic champagne	Taxable (fruit drink not 100% juice)	Exempt, unless sweetened
Popcorn, popped	Taxable	Exempt, unless prepared by retailer, retailer is not primarily a manufacturer, and not sold by weight or volume
Popcorn, unpopped	Taxable	Exempt
Powdered fruit drinks	Taxable	Exempt
Rotisserie chicken (sold heated)	Taxable	Taxable, unless sold by weight or volume
Sandwich prepared by grocer not sold by weight or volume	Taxable, unless frozen	Taxable
YoJo and other milk product/fruit drink combinations	Taxable	Exempt

Source: Department of Revenue



## ATTACHMENT 2

### Durable Medical Equipment That Would be Exempt from Sales Tax Under the Bill

Alternating pressure pads	Posture back supports
Bed rails	Respiratory therapy equipment not used to administer oxygen
Bedside commodes	Restraints
Bone fracture therapy devices	Sitz baths
Continuous passive motion devices	Specialized seating, desks, workstations
Decubitus bed pads	Standing frames, devices, and accessories
Foam seating pads not for wheelchairs	Stethoscopes
Foam wedges not for wheelchairs	Toilet safety frames
Hospital beds	Traction stands, pulleys, etc.
Hydro-collators	Trapeze bars/bar stands
Hydro-therm heating pads	Ultraviolet cabinets
I.V. stands	Urinals
Leg weights (rehab. related)	Ventilators not administering oxygen
Lift recliners	Whirlpool bath equipment
Muscle stimulators	
Overbed tables	
Paraffin baths	
Patient transport devices, boards	
Patient lifts	
Patient lift slings	

Source: Department of Revenue



