

**SENATE BILL REPORT**

**SB 6034**

**AS OF JANUARY 28, 1994**

**Brief Description:** Providing notice of taxes and limits on past-due tax recovery for religious, charitable, benevolent, and nonprofit service organizations.

**SPONSORS:** Senators Snyder and Winsley

**SENATE COMMITTEE ON WAYS & MEANS**

**Staff:** Terry Wilson (786-7715)

**Hearing Dates:** January 27, 1994

**BACKGROUND:**

Nonprofit organizations are subject to the business and occupation (B&O) tax on their income and must collect sales taxes on their sales unless specifically exempted by statute. Exemption from federal income tax does not automatically provide an exemption for state taxes. Most nonprofit organizations pay B&O tax at the services rate of 2.13 percent.

Current law exempts several nonprofit organizations from B&O tax, including adult family homes licensed by the state, sheltered workshops, nonprofit organizations that are guarantee agencies under the federal guaranteed student loan program, corporations created by Congress to provide aid to members of the armed forces (Red Cross), and credit and debt counseling organizations.

In addition, nonprofit organizations are exempt from the B&O tax and are not required to collect sales tax on the following fund-raising activities.

**BAZAARS AND RUMMAGE SALES.** Income from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax if the sales are conducted no more than twice each year, each sale lasts no more than two days, and the income from each sale does not exceed \$1,000. Sales tax does not apply to sales that are infrequent enough to be considered casual and isolated. The Department of Revenue has interpreted sales at nonprofit bazaars and rummage sales to be casual and isolated as long as the same criteria for the B&O tax exemption are met.

**PUBLIC BENEFIT ORGANIZATION AUCTIONS.** Income from fund-raising auctions conducted by nonprofit organizations exempt from federal income tax is exempt from B&O tax and sales tax if the auction is held no more than once a year for a period no greater than two days.

FUND-RAISING DRIVES/CONCESSIONS. By rule of the Department of Revenue, income from fund-raising drives and concessions conducted by nonprofit organizations other than public benefit organization auctions is exempt from B&O tax and sales tax if the activities meet the criteria for exemption as bazaars and rummage sales.

MEALS. By rule of the Department of Revenue, income to nonprofit organizations from the serving of meals for fund-raising purposes is exempt from B&O tax and sales tax if the meals are served no more frequently than once every two weeks and the gross receipts are \$1,000 or less.

In addition, bona fide initiation fees, dues, contributions, donations, and tuition fees may be deducted from income in computing tax liability unless the dues are in exchange for any significant amount of goods or services or the dues are graduated upon the amount of goods or services rendered.

In assessing back taxes, the Department of Revenue is limited to taxes for the current year and the previous four years, except (1) against a taxpayer who has not registered with the department, (2) upon a showing of fraud or of misrepresentation of a material fact by the taxpayer, or (3) where a taxpayer has executed a written waiver.

**SUMMARY:**

The Department of Revenue is required to develop and implement an effective method of providing notice at least biennially to all religious, charitable, benevolent, and nonprofit service organizations of the applicability of retail sales and use taxes, including specifically the provisions of WAC 458-20-169.

In recovering past due taxes from these organizations for fund-raising activities, the department is limited to collecting taxes for the current and preceding year.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

The Department assessed tax on these service organizations that are unaware of their tax liabilities from activities designed to raise moneys for charitable purposes. They would follow the rules if they were aware of them.

**TESTIMONY AGAINST:**

Limited audit ability would set a precedent that would encourage others to seek the same treatment and encourage organizations not to register with the Department because they know their back tax liability will be limited.

**TESTIFIED:** Senator Snyder, sponsor (pro); Sharon Foster, Council of Youth Agencies (pro); Donn Smallwood, Dept. of Revenue (con)