

SENATE BILL REPORT

ESSB 5531

As Passed Senate, March 13, 1999

Title: An act relating to updating the tax code by making administrative clarifications, correcting oversights, and deleting obsolete references.

Brief Description: Updating the tax code by making administrative clarifications, correcting oversights, and deleting obsolete references.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Loveland and Winsley; by request of Department of Revenue).

Brief History:

Committee Activity: Ways & Means: 2/16/99, 2/17/99 [DPS].
Passed Senate, 3/13/99, 42-0.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5531 be substituted therefor, and the substitute bill do pass.

Signed by Senators Loveland, Chair; Fairley, Fraser, Honeyford, Kline, Kohl-Welles, Long, McDonald, Rasmussen, Roach, Rossi, B. Sheldon, Snyder, Spanel, West and Wojahn.

Staff: Terry Wilson (786-7433)

Background: Amounts received by nonprofit organizations for fund-raising activities are exempt from business and occupation (B&O) tax and sales tax. Fund-raising activities are activities involving the direct solicitation of money or property or the anticipated exchange of goods or services for money between the organization and the person solicited. Fund-raising activities do not include the operation of a regular place of business in which sales are made during regular hours.

Sales of watercraft to nonresidents or to residents of foreign countries for use outside the state are exempt from sales tax. An exemption certificate must be signed by the purchaser. A copy must be filed with the Department of Revenue and a duplicate must be retained by the dealer.

Sales of machinery and equipment used to generate electricity using wind, sun, or landfill gas are exempt from sales and use tax. For the sales tax exemption, the purchaser must provide the seller with an exemption certificate and provide the Department of Revenue with a duplicate copy of the exemption certificate or a summary of exempt sales. An exemption certificate or an annual summary of exempt sales must be provided to the department for the use tax exemption.

Sales of amusement, recreation, and other personal services by nonprofit youth organizations are exempt from sales tax. However, no corresponding use tax exemption exists.

The B&O tax does not apply to ride sharing for the elderly and the handicapped, and ride sharing vehicles for the elderly and the handicapped are not subject to sales and use tax. In 1996, the terms "elderly" and "handicapped" were replaced in the ride sharing statutes with "persons with special transportation needs." However, the tax exemption statutes were not updated.

In 1997, legislation changed the amount of interest paid on excise tax refunds, recoveries, and credits. Interest was computed at a variable rate defined as the average federal short-term rate plus 1 percent. After January 1, 1999, the interest was to accrue at the variable rate plus 2 percent. However, the interest rate for court-ordered recoveries was applied to recoveries beginning January 1, 1992, rather than January 1, 1999.

Cogeneration facilities that have a B&O credit are exempt from property tax for seven years. However, the B&O credit program was terminated in 1984.

Section 1034 of the federal Internal Revenue Code, which provided for the nonrecognition of gain on the sale of a principal residence and the purchase within two years of a new residence, was repealed by Congress when it exempted the first \$250,000 of gain on the sale of a principal residence.

Summary of Bill: For the B&O tax exemption for fund-raising, fund-raising is redefined as either accepting contributions of money or other property or activities involving the anticipated exchange of goods or services for money. The exemption does not apply to the operation of a regular place of business from which services are provided or performed during regular hours such as the provision of retail, personal, or professional services.

The requirement of sending duplicate exemption certificates to the Department of Revenue is eliminated for exempt watercraft sales. The requirement of sending duplicate exemption certificates and use tax exemption certificates to the Department of Revenue on sales of machinery and equipment used to generate electricity using wind, sun, or landfill gas is eliminated.

A use tax exemption is provided for sales of amusement, recreation, and other personal services by nonprofit youth organizations.

The B&O and sales and use tax exemption statutes for ride sharing for the elderly and the handicapped are changed to refer to persons with special transportation needs.

The interest rate for court-ordered recoveries is applied to recoveries beginning January 1, 1999, rather than January 1, 1992.

The following technical corrections are made:

- Obsolete provisions referring to the terminated B&O tax credit for cogeneration facilities are removed.
- The seven-year property tax exemption for cogeneration facilities that have a B&O credit is repealed.
- Obsolete references to section 1034 of the federal Internal Revenue Code are eliminated.

- The three 1998 session laws that amended the B&O wholesaling tax statute without reference to each other are integrated.
- A redundant reference to amusement and recreation services is removed.
- The property tax exemption for sheltered workshops and the definition of sheltered workshop are incorporated into one section.

References to the federal Internal Revenue Code are updated to refer to the code as it exists on January 1, 1999, rather than January 1, 1998, for purposes of the estate tax and the probate code.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 1999.

Testimony For: This is a house-keeping bill. It is not necessarily technical. Elimination of the exemption certificate can be considered policy, but it is consistent with the elimination of other exemption certificates last year.

Testimony Against: None.

Testified: PRO: Tim Sekerak, DOR.