
HOUSE BILL 1960

State of Washington

56th Legislature

1999 Regular Session

By Representatives Cairnes, Reardon, Huff, Linville, Carrell, Campbell, Mulliken, O'Brien and Koster

Read first time 02/12/1999. Referred to Committee on Finance.

1 AN ACT Relating to revising laws impacting retailer tax collection
2 and remittance; amending RCW 82.32.045, 82.08.050, and 82.12.040;
3 adding a new section to chapter 35.58 RCW; adding a new section to
4 chapter to 44.04 RCW; adding a new section to chapter 81.104 RCW;
5 adding new sections to chapter 82.14 RCW; creating new sections; and
6 declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 82.32.045 and 1996 c 111 s 3 are each amended to read
9 as follows:

10 (1) Except as otherwise provided in this chapter, payments of the
11 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,
12 along with reports and returns on forms prescribed by the department,
13 are due monthly within twenty-five days after the end of the month in
14 which the taxable activities occur.

15 (2) The department of revenue may relieve any taxpayer or class of
16 taxpayers from the obligation of remitting monthly and may require the
17 return to cover other longer reporting periods, but in no event may
18 returns be filed for a period greater than one year. For these

1 taxpayers, tax payments are due on or before the last day of the month
2 next succeeding the end of the period covered by the return.

3 (3) The department of revenue may implement through rule a
4 procedure for the remittance of estimated tax if, after review and
5 examination of the advantages and disadvantages to the department and
6 to taxpayers, the department finds that the advantages outweigh the
7 disadvantages and that implementation would be an improvement over the
8 existing reporting system. As part of the review and examination, the
9 department shall seek input from taxpayers on this issue and shall
10 consult with other states regarding experience with estimated tax. The
11 department must make a "yes" or "no" decision regarding whether it will
12 implement an estimated tax procedure by December 1, 1999, and shall in
13 writing inform the fiscal committees of the senate and the house of
14 representatives of the decision to proceed or not proceed with a rule.

15 (4) The department of revenue may also require verified annual
16 returns from any taxpayer, setting forth such additional information as
17 it may deem necessary to correctly determine tax liability.

18 ~~((+4))~~ (5) Notwithstanding subsections (1) and (2) of this
19 section, the department may relieve any person of the requirement to
20 file returns if the following conditions are met:

21 (a) The person's value of products, gross proceeds of sales, or
22 gross income of the business, from all business activities taxable
23 under chapter 82.04 RCW, is less than twenty-four thousand dollars per
24 year;

25 (b) The person's gross income of the business from all activities
26 taxable under chapter 82.16 RCW is less than twenty-four thousand
27 dollars per year; and

28 (c) The person is not required to collect or pay to the department
29 of revenue any other tax or fee which the department is authorized to
30 collect.

31 NEW SECTION. Sec. 2. The legislature finds that retailers have an
32 important role in the state's tax system by collecting sales tax from
33 consumers and remitting it to the state. Changes to the tax system,
34 such as rate or exemption changes place an accounting and
35 organizational burden on these businesses. In recognition of that
36 burden, it is the intent of the legislature to limit changes to state
37 and local sales and use tax to once a year. Additionally, it is the
38 intent of the legislature to require the local government enacting or

1 revising a tax to give advance notice to the department of revenue of
2 any such change so that the department may provide adequate notice to
3 retailers of pending changes. Sections 3 through 6 of this act are
4 intended to minimize the retailer computer reprogramming costs that
5 result from changes in the tax.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.58 RCW
7 to read as follows:

8 In order to lessen the disruption on sellers, ordinances enacting
9 or revising a sales and use tax under the authority of this chapter
10 shall require ordinances to take effect October 1st. Ordinances must
11 be enacted no later than July 1st to take effect the following October
12 1st. The department of revenue must receive notice of any changes to
13 taxes authorized under this chapter no later than fifteen days after
14 the date of enactment of such changes. The department of revenue must
15 notify the sellers responsible for collecting the tax of the change not
16 less than sixty days prior to the effective date.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 44.04 RCW
18 to read as follows:

19 In order to lessen the disruption on sellers, legislation enacting
20 or revising a sales and use tax under chapters 82.08, 82.12, and 82.14
21 RCW shall provide that the act take effect October 1st. The department
22 of revenue must notify the sellers responsible for collecting the tax
23 of the change not less than sixty days prior to the effective date.

24 NEW SECTION. **Sec. 5.** A new section is added to chapter 81.104 RCW
25 to read as follows:

26 In order to lessen the disruption on sellers, ordinances enacting
27 or revising a sales and use tax under the authority of this chapter
28 shall require ordinances to take effect October 1st. Ordinances must
29 be enacted no later than July 1st to take effect the following October
30 1st. The department of revenue must receive notice of any changes to
31 taxes authorized under this chapter no later than fifteen days after
32 the date of enactment of such changes. The department of revenue must
33 notify the sellers responsible for collecting the tax of the change not
34 less than sixty days prior to the effective date.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 82.14 RCW
2 to read as follows:

3 In order to lessen the disruption on sellers, ordinances enacting
4 or revising a sales and use tax under the authority of this chapter
5 shall require ordinances to take effect October 1st. Ordinances must
6 be enacted no later than July 1st to take effect the following October
7 1st. The department of revenue must receive notice of any changes to
8 taxes authorized under this chapter no later than fifteen days after
9 the date of enactment of such changes. The department of revenue must
10 notify the sellers responsible for collecting the tax of the change not
11 less than sixty days prior to the effective date.

12 **Sec. 7.** RCW 82.08.050 and 1993 sp.s. c 25 s 704 are each amended
13 to read as follows:

14 The tax hereby imposed shall be paid by the buyer to the seller,
15 and each seller shall collect from the buyer the full amount of the tax
16 payable in respect to each taxable sale in accordance with the schedule
17 of collections adopted by the department pursuant to the provisions of
18 RCW 82.08.060. The tax required by this chapter, to be collected by
19 the seller, shall be deemed to be held in trust by the seller until
20 paid to the department, and any seller who appropriates or converts the
21 tax collected to his or her own use or to any use other than the
22 payment of the tax to the extent that the money required to be
23 collected is not available for payment on the due date as prescribed in
24 this chapter shall be guilty of a gross misdemeanor.

25 In case any seller fails to collect the tax herein imposed or
26 having collected the tax, fails to pay it to the department in the
27 manner prescribed by this chapter, whether such failure is the result
28 of his or her own acts or the result of acts or conditions beyond his
29 or her control, he or she shall, nevertheless, be personally liable to
30 the state for the amount of the tax, unless the seller has taken from
31 the buyer in good faith a properly executed resale certificate under
32 RCW 82.04.470.

33 The amount of tax, until paid by the buyer to the seller or to the
34 department, shall constitute a debt from the buyer to the seller and
35 any seller who fails or refuses to collect the tax as required with
36 intent to violate the provisions of this chapter or to gain some
37 advantage or benefit, either direct or indirect, and any buyer who
38 refuses to pay any tax due under this chapter shall be guilty of a

1 misdemeanor. The tax required by this chapter to be collected by the
2 seller shall be stated separately from the selling price in any sales
3 invoice or other instrument of sale. On all retail sales through
4 vending machines, the tax need not be stated separately from the
5 selling price or collected separately from the buyer. For purposes of
6 determining the tax due from the buyer to the seller and from the
7 seller to the department it shall be conclusively presumed that the
8 selling price quoted in any price list, sales document, contract or
9 other agreement between the parties does not include the tax imposed by
10 this chapter, but if the seller advertises the price as including the
11 tax or that the seller is paying the tax, the advertised price shall
12 not be considered the selling price.

13 Where a buyer has failed to pay to the seller the tax imposed by
14 this chapter and the seller has not paid the amount of the tax to the
15 department, the department may, in its discretion, proceed directly
16 against the buyer for collection of the tax, in which case a penalty of
17 ten percent may be added to the amount of the tax for failure of the
18 buyer to pay the same to the seller, regardless of when the tax may be
19 collected by the department; and all of the provisions of chapter 82.32
20 RCW, including those relative to interest and penalties, shall apply in
21 addition; and, for the sole purpose of applying the various provisions
22 of chapter 82.32 RCW, the twenty-fifth day of the month following the
23 tax period in which the purchase was made shall be considered as the
24 due date of the tax.

25 In any year that a seller is required to reprogram cash registers
26 as a result of statutory revisions to the rate and to exemptions under
27 this chapter, the seller may take a deduction, from the amount of the
28 tax to be remitted to the department under this chapter. The deduction
29 is equal to .3 percent of the retail sales tax collected on the first
30 four hundred thousand dollars of taxable sales and .7 percent of the
31 retail sales tax collected on taxable sales over four hundred thousand
32 dollars, but not exceeding three million dollars of taxable sales
33 reported for the calendar year in which the reprogramming was required.
34 This deduction is meant to offset cash register reprogramming costs
35 attributable to legislative revisions to the rate and to exemptions
36 under this chapter. No refunds shall be granted in place of the
37 deduction. A person may not take a deduction under this section if the
38 person claims a deduction under RCW 82.12.040 or section 9 of this act.

1 This yearly deduction must be taken by the due date of the last tax
2 return for the calendar year.

3 **Sec. 8.** RCW 82.12.040 and 1986 c 48 s 1 are each amended to read
4 as follows:

5 (1) Every person who maintains in this state a place of business or
6 a stock of goods, or engages in business activities within this state,
7 shall obtain from the department a certificate of registration, and
8 shall, at the time of making sales, or making transfers of either
9 possession or title or both, of tangible personal property for use in
10 this state, collect from the purchasers or transferees the tax imposed
11 under this chapter. For the purposes of this chapter, the phrase
12 "maintains in this state a place of business" shall include the
13 solicitation of sales and/or taking of orders by sales agents or
14 traveling representatives. For the purposes of this chapter, "engages
15 in business activity within this state" includes every activity which
16 is sufficient under the Constitution of the United States for this
17 state to require collection of tax under this chapter. The department
18 shall in rules specify activities which constitute engaging in business
19 activity within this state, and shall keep the rules current with
20 future court interpretations of the Constitution of the United States.

21 (2) Every person who engages in this state in the business of
22 acting as an independent selling agent for persons who do not hold a
23 valid certificate of registration, and who receives compensation by
24 reason of sales of tangible personal property of his principals made
25 for use in this state, shall, at the time such sales are made, collect
26 from the purchasers the tax imposed under this chapter, and for that
27 purpose shall be deemed a retailer as defined in this chapter.

28 (3) The tax required to be collected by this chapter shall be
29 deemed to be held in trust by the retailer until paid to the department
30 and any retailer who appropriates or converts the tax collected to his
31 own use or to any use other than the payment of the tax provided herein
32 to the extent that the money required to be collected is not available
33 for payment on the due date as prescribed shall be guilty of a
34 misdemeanor. In case any seller fails to collect the tax herein
35 imposed or having collected the tax, fails to pay the same to the
36 department in the manner prescribed, whether such failure is the result
37 of his own acts or the result of acts or conditions beyond his control,
38 he shall nevertheless, be personally liable to the state for the amount

1 of such tax. In any year that a seller is required to reprogram cash
2 registers as a result of statutory revisions to the rate and to
3 exemptions under this chapter, the seller may take a deduction, from
4 the amount of the tax to be remitted to the department under this
5 chapter. The deduction is equal to .3 percent of the retail sales tax
6 collected on the first four hundred thousand dollars of taxable sales
7 and .7 percent of the retail sales tax collected on taxable sales over
8 four hundred thousand dollars, but not exceeding three million dollars
9 of taxable sales reported for the calendar year in which the
10 reprogramming was required. This deduction is meant to offset cash
11 register reprogramming costs attributable to legislative revisions to
12 the rate and to exemptions under this chapter. No refunds shall be
13 granted in place of the deduction. A person may not take a deduction
14 under this section if the person claims a deduction under RCW 82.08.050
15 or section 9 of this act. This yearly deduction must be taken by the
16 due date of the last tax return for the calendar year.

17 (4) Any retailer who refunds, remits, or rebates to a purchaser, or
18 transferee, either directly or indirectly, and by whatever means, all
19 or any part of the tax levied by this chapter shall be guilty of a
20 misdemeanor.

21 NEW SECTION. Sec. 9. A new section is added to chapter 82.14 RCW
22 to read as follows:

23 In any year that a seller is required to reprogram cash registers
24 as a result of statutory revisions to the rate and to exemptions under
25 this chapter, the seller may take a deduction, from the amount of the
26 tax to be remitted to the department under this chapter. The deduction
27 is equal to .3 percent of the retail sales tax collected on the first
28 four hundred thousand dollars of taxable sales and .7 percent of the
29 retail sales tax collected on taxable sales over four hundred thousand
30 dollars, but not exceeding three million dollars of taxable sales
31 reported for the calendar year in which the reprogramming was required.
32 This deduction is meant to offset cash register reprogramming costs
33 attributable to legislative revisions to the rate and to exemptions
34 under this chapter. No refunds shall be granted in place of the
35 deduction. A person may not take a deduction under this section if the
36 person claims a deduction under RCW 82.08.050 or 82.12.040. This
37 yearly deduction must be taken by the due date of the last tax return
38 for the calendar year.

1 NEW SECTION. **Sec. 10.** (1) The department of revenue shall conduct
2 a study of the administration of exemptions from state and local sales
3 taxes.

4 (2) The department shall:

5 (a) Examine the current processes used by the department,
6 retailers, and customers for providing and claiming sales tax
7 exemptions;

8 (b) Review sales tax exemption administration processes in other
9 states and British Columbia;

10 (c) Review sales tax exemption statutes for clear and concise
11 language that gives guidance in the administration of sales tax
12 exemptions;

13 (d) Identify and analyze alternative processes that would lessen
14 the costs and burdens for retailers of honoring sales tax exemptions
15 requests, including the administration of exemptions through refunds to
16 taxpayers, and development of forms to be used by buyers;

17 (e) Examine the fairness of penalties imposed on retailers
18 resulting from improper administration of sales tax exemptions;

19 (f) Examine the incidences of fraud of each sales tax exemption and
20 determine the primary contributing factors leading to the fraud; and

21 (g) Make recommendations to the legislature for improving the
22 efficiency of administering state and local sales and use tax
23 exemptions.

24 (3) The department shall report its findings to the fiscal
25 committees of the house of representatives and senate by September 1,
26 1999.

27 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
28 section 10 of this act, referencing section 10 of this act by bill or
29 chapter number, is not provided by June 30, 1999, in the omnibus
30 appropriations act, section 10 of this act is null and void.

31 NEW SECTION. **Sec. 12.** Section 10 of this act is necessary for the
32 immediate preservation of the public peace, health, or safety, or
33 support of the state government and its existing public institutions,
34 and takes effect immediately.

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