

FINAL BILL REPORT

SB 6799

C 324 L 08

Synopsis as Enacted

Brief Description: Concerning the sourcing, for sales and use tax purposes, of sales of tangible personal property by florists.

Sponsors: Senators Regala, Prentice and Fraser; by request of Department of Revenue.

Senate Committee on Ways & Means

House Committee on Finance

Background: In 2007 the Legislature enacted SSB 5089 (C 6 L 07) which fully conformed Washington law with the streamlined sales and use tax agreement (SSUTA). The major provisions of the legislation take effect July 1, 2008. A major component of the legislation is the change from origin based sourcing to destination based sourcing. Sourcing determines where a sale occurs and, therefore, which local jurisdiction is entitled to the sales tax generated from a particular transaction.

Until July 1, 2008, local sales and use taxes are sourced on an origin-based system according to the following rules: (1) sales tax from the sale of goods is sourced to the retail outlet at or from which delivery is made; (2) sales tax from the sale of a service, with or without a sale of goods, is sourced to the place where the service is primarily performed; and (3) sales tax from the lease or rental of goods is sourced to the place of first use. In the case of short-term rentals, this is the place of business of the lessor. In the case of rentals or leases involving periodic payments, this is the primary place of use by the renter or lessee for each payment period.

Beginning July 1, 2008, with few exceptions, local sales and use taxes are sourced on a destination-based system according to the following rules: (1) if a good or service is received by the purchaser at the business location of the seller, the sales tax is sourced to that business location; (2) if the good is not received by the purchaser at the business location of the seller, the sales tax is sourced to the location where receipt occurs, if known by the seller; (3) if neither of the first two rules apply, the sales tax is sourced to the address indicated for the purchaser in records normally maintained by the seller, if the use of this address by the seller does not constitute bad faith; (4) if none of the first three rules apply, the sales tax is sourced to the address for the purchaser obtained during the consummation of the sale, including the address of the purchaser's payment instrument, if the use of this address by the seller does not constitute bad faith; and (5) if none of the first four rules apply, the sales tax is sourced to the address from which the delivery is made.

The florists' telegraphic delivery (FTD) association is a network that provides a way for florists to serve each others' out-of-town customers by exchanging orders. Generally, a receiving florist takes an order from a customer and then communicates the order to a second florist who delivers the items to the place designated by the receiving florist.

In the case of FTD sales, the location of the florist taking the order currently determines the local tax. The florist making delivery to the customer on behalf of the florist taking the order is considered to be making a wholesale sale.

The SSUTA was recently amended to extend an exclusion of sales by florists from the destination-based sourcing provisions. The amendment allows member states to source sales by florists according to their own rules through December 31, 2009.

Summary: Florists are allowed to continue using origin-based sourcing, including FTD sales which will continue to be sourced to the location of the florist taking the order.

Florist is defined as a person whose primary business is the retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, and similar products not for landscaping purposes.

Votes on Final Passage:

Senate	45	3
House	96	0

Effective: July 1, 2008