

# SENATE BILL REPORT

## SSB 5566

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As Amended by House, April 8, 2009

**Title:** An act relating to harmonizing excise tax statutes with the streamlined sales and use tax agreement in regards to direct sellers, telecommunications ancillary services, commercial parking taxes, and exemption certificates.

**Brief Description:** Harmonizing excise tax statutes with the streamlined sales and use tax agreement in regards to direct sellers, telecommunications ancillary services, commercial parking taxes, and exemption certificates.

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

**Brief History:**

**Committee Activity:** Ways & Means: 2/10/09, 2/17/09 [DPS].

Passed Senate: 3/12/09, 46-2.

Passed House: 4/08/09, 98-0.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5566 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Parlette, Pflug, Pridemore, Regala, Rockefeller and Schoesler.

**Staff:** Dean Carlson (786-7305)

**Background:** The Streamlined Sales and Use Tax Agreement (SSUTA) is a multi-state effort to simplify the system by which state and local sales and use taxes are administered. The agreement provides uniform definitions, administrative procedures, and technology standards for member states. Washington became a member state of the SSUTA effective July 1, 2008, with the implementation of Substitute Senate Bill 5089 which passed during the 2007 legislative session.

As part of the SSUTA legislation, Washington adopted the SSUTA's uniform general sourcing rules effective July 1, 2008. This required retail sales to be sourced to the location

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where the buyer receives the goods purchased. A portion of these rules dealt with how to source sales of direct mail, in which large volumes of mail are delivered to many addressees. Sellers of direct mail would be required to collect and remit local sales tax on these transactions based on the individual mailbox destinations of the direct mail if the seller is given jurisdictional information about the destinations that the seller could use for tax reporting purposes.

The SSUTA Governing Board has passed an amendment to the agreement by which states may elect to source intrastate direct mail transactions based on the seller's location, as Washington did before July 1, 2008.

The SSUTA's sourcing rules also govern the sourcing of ancillary services, which are services associated with or incidental to the provision of telecommunications services. Recently, the Compliance Review and Interpretations Committee of the SSUTA's Governing Board notified the Department of Revenue that it could not determine how this state sources ancillary services.

**Summary of Substitute Bill:** The sale of direct mail that is delivered or distributed from a location within this state to another location within this state is sourced, for sales tax purposes, to the address of the seller from which the direct mail was sent.

The bill also clarifies that telecommunication ancillary services are sourced to the customer's place of primary use of the telecommunication services.

The 50 percent penalty for misuse of a resale certificate is extended to also apply to the misuse of the uniform Streamlined Sales Tax exemption certificate when it is used to claim a purchase for resale exemption.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This was a successful effort by the state of Washington working with the printers of the state. This will keep us in compliance with the streamline sales tax agreement and we are for that. Direct mail has to be exempted from the SST provisions. Every different address on a direct mail campaign would have to be accounted for and we would not have the staff for that. This would have been a real fiasco to have to keep track of the sales tax for 20,000-30,000 pieces of mail. The Department of Revenue worked very hard for the industry on this effort.

**Persons Testifying:** PRO: Amber Carter, Association of Washington Business; Judy Coovert, Printcom; Drew Shirk, Department of Revenue; Bill Stauffacher, Pacific Printing and Imaging.

**House Amendment(s):** Prohibits interest and penalties, until January 1, 2013, on inadvertent errors made in a good faith effort to comply with the sales tax sourcing rules for taxpayers with gross incomes below \$500,000 in the prior year.