
Ways & Means Committee

HB 2128

Brief Description: Clarifying the sales tax exemption for local telephone service.

Sponsors: Representative Hunter; by request of Department of Revenue.

Brief Summary of Bill

- Clarifies that the state and local retail sales tax exemption for residential telephone services is limited to telephone services regulated by the Washington Utilities and Transportation Commission.

Hearing Date: 11/28/11

Staff: Jeffrey Mitchell (786-7139).

Background:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3 percent, depending on the location. The average local tax rate is 2.4 percent, for an average combined state and local tax rate of 8.9 percent.

In 1983, state and local retail sales tax was extended to telephone services, however, an exemption was provided for individuals "subscribing to a residential class of telephone service." The Department of Revenue (DOR) has interpreted this exemption to apply only to residential telephone service that is regulated by the Washington Utilities and Transportation Commission (UTC). The UTC regulates the rates and services of telephone companies providing landline

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

telephone services in Washington, however, the UTC does not regulate cable services, cellular phone services, voice over internet protocol services, or internet service provider services.

In 2007, the DOR assessed Sprint Spectrum LP (Sprint) with retail sales tax on wireless telephone services sold to non-business customers for the audit period July 1, 1999, through December 31, 2002. (Several other taxes were also in dispute.) The Board of Tax Appeals (BTA) upheld the assessment. However, on April 8, 2011, a Washington State superior court reversed the decision by the BTA by ruling that Sprint's sales of cellular telephone services to non-business customers qualifies for the residential telephone service exemption.

Summary of Bill:

The state and local retail sales tax exemption for certain residential telephone services is clarified to only apply to telephone services regulated by the Washington Utilities and Transportation Commission. The change applies retroactively to any prior tax period open for assessment or refund, as well as prospectively.

Appropriation: None.

Fiscal Note: Requested on November 27, 2011.

Effective Date: The bill contains an emergency clause and takes effect immediately.