
SENATE BILL 6474

State of Washington 62nd Legislature 2012 Regular Session

By Senators Keiser and Fain

Read first time 01/25/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to changing sales tax sourcing from destination
2 based to origin based if congress does not enact legislation requiring
3 remote sellers to collect sales tax; amending RCW 82.14.020 and
4 82.14.390; creating a new section; repealing RCW 82.14.490, 82.14.495,
5 82.14.500, 82.32.730, 82.32.755, and 82.32.760; and providing a
6 contingent effective date.

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

8 **Sec. 1.** RCW 82.14.020 and 2010 c 106 s 223 are each amended to
9 read as follows:

10 For purposes of this chapter:

11 (1) A retail sale consisting solely of the sale of tangible
12 personal property is deemed to have occurred at the retail outlet at or
13 from which delivery is made to the consumer;

14 (2) A retail sale consisting essentially of the performance of
15 personal, business, or professional services is deemed to have occurred
16 at the place at which such services were primarily performed, except
17 that for the performance of a tow truck service, as defined in RCW
18 46.55.010, the retail sale is deemed to have occurred at the place of
19 business of the operator of the tow truck service;

1 (3) A retail sale consisting of the rental of tangible personal
2 property is deemed to have occurred (a) in the case of a rental
3 involving periodic rental payments, at the place of primary use by the
4 lessee during the period covered by each payment, or (b) in all other
5 cases, at the place of first use by the lessee;

6 (4) A retail sale within the scope of RCW 82.04.050(2), and a
7 retail sale of taxable personal property to be installed by the seller
8 is deemed to have occurred at the place where the labor and services
9 involved were primarily performed;

10 (5)(a) A retail sale consisting of the providing to a consumer of
11 telephone service, as defined in RCW 82.04.065, other than a sale of
12 tangible personal property under subsection (1) of this section or a
13 rental of tangible personal property under subsection (3) of this
14 section or a sale of mobile telecommunications services, is deemed to
15 have occurred at the situs of the telephone or other instrument through
16 which the telephone service is rendered;

17 (b) A retail sale consisting of the providing of telecommunications
18 services must be sourced in accordance with RCW 82.32.520;

19 (6) A retail sale of linen and uniform supply services is deemed to
20 occur as provided in RCW 82.08.0202;

21 (7) A retail sale consisting of an extended warranty is deemed to
22 have occurred at the business location of the seller if the extended
23 warranty is received by the purchaser at that location. If an extended
24 warranty is not received by the purchaser at the business location of
25 the seller, a retail sale of an extended warranty is deemed to have
26 occurred at the location where receipt by the buyer occurs;

27 (8) "City" means a city or town;

28 ~~((+2))~~ (9) The meaning ascribed to words and phrases in chapters
29 82.04, 82.08, and 82.12 RCW, as now or hereafter amended, insofar as
30 applicable, has full force and effect with respect to taxes imposed
31 under authority of this chapter. However, the terms "retail sale" and
32 "sale at retail" have only the meaning provided in RCW 82.08.010 for
33 the purposes of this chapter, unless the context clearly requires that
34 a different definition apply;

35 ~~((+3))~~ (10) "Taxable event" means any retail sale, or any use,
36 upon which a state tax is imposed pursuant to chapter 82.08 or 82.12
37 RCW, as they now exist or may hereafter be amended. However, the term

1 does not include a retail sale taxable pursuant to RCW 82.08.150, as
2 now or hereafter amended; and

3 ~~((4))~~ (11) "Treasurer or other legal depository" means the
4 treasurer or legal depository of a county or city.

5 **Sec. 2.** RCW 82.14.390 and 2011 1st sp.s. c 50 s 973 are each
6 amended to read as follows:

7 (1) Except as provided in subsection ~~((7))~~ (6) of this section,
8 the governing body of a public facilities district (a) created before
9 July 31, 2002, under chapter 35.57 or 36.100 RCW that commences
10 construction of a new regional center, or improvement or rehabilitation
11 of an existing new regional center, before January 1, 2004; (b) created
12 before July 1, 2006, under chapter 35.57 RCW in a county or counties in
13 which there are no other public facilities districts on June 7, 2006,
14 and in which the total population in the public facilities district is
15 greater than ninety thousand that commences construction of a new
16 regional center before February 1, 2007; (c) created under the
17 authority of RCW 35.57.010(1)(d); or (d) created before September 1,
18 2007, under chapter 35.57 or 36.100 RCW, in a county or counties in
19 which there are no other public facilities districts on July 22, 2007,
20 and in which the total population in the public facilities district is
21 greater than seventy thousand, that commences construction of a new
22 regional center before January 1, 2009, or before January 1, 2011, in
23 the case of a new regional center in a county designated by the
24 president as a disaster area in December 2007, may impose a sales and
25 use tax in accordance with the terms of this chapter. The tax is in
26 addition to other taxes authorized by law and must be collected from
27 those persons who are taxable by the state under chapters 82.08 and
28 82.12 RCW upon the occurrence of any taxable event within the public
29 facilities district. The rate of tax may not exceed 0.033 percent of
30 the selling price in the case of a sales tax or value of the article
31 used in the case of a use tax.

32 ~~((2)(a) The governing body of a public facilities district
33 imposing a sales and use tax under the authority of this section may
34 increase the rate of tax up to 0.037 percent if, within three fiscal
35 years of July 1, 2008, the department determines that, as a result of
36 RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW
37 82.14.020, a public facilities district's sales and use tax collections~~

1 for fiscal years after July 1, 2008, have been reduced by a net loss of
2 at least 0.50 percent from the fiscal year before July 1, 2008. The
3 fiscal year in which this section becomes effective is the first fiscal
4 year after July 1, 2008.

5 (b) The department must determine sales and use tax collection net
6 losses under this section as provided in RCW 82.14.500 (2) and (3).
7 The department must provide written notice of its determinations to
8 public facilities districts. Determinations by the department of a
9 public facilities district's sales and use tax collection net losses as
10 a result of RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to
11 RCW 82.14.020 are final and not appealable.

12 (c) A public facilities district may increase its rate of tax after
13 it has received written notice from the department as provided in (b)
14 of this subsection. The increase in the rate of tax must be made in
15 0.001 percent increments and must be the least amount necessary to
16 mitigate the net loss in sales and use tax collections as a result of
17 RCW 82.14.490 and the chapter 6, Laws of 2007 amendments to RCW
18 82.14.020. The increase in the rate of tax is subject to RCW
19 82.14.055.

20 (3)) The tax imposed under subsection (1) of this section must be
21 deducted from the amount of tax otherwise required to be collected or
22 paid over to the department of revenue under chapter 82.08 or 82.12
23 RCW. The department of revenue must perform the collection of such
24 taxes on behalf of the county at no cost to the public facilities
25 district. ((During the 2011-2013 fiscal biennium, distributions by the
26 state to a public facilities district based on the additional rate
27 authorized in subsection (2) of this section must be reduced by 3.4
28 percent.

29 (4)) (3) No tax may be collected under this section before August
30 1, 2000. The tax imposed in this section expires when the bonds issued
31 for the construction of the regional center and related parking
32 facilities are retired, but not more than twenty-five years after the
33 tax is first collected.

34 ((5)) (4) Moneys collected under this section may only be used
35 for the purposes set forth in RCW 35.57.020 and must be matched with an
36 amount from other public or private sources equal to thirty-three
37 percent of the amount collected under this section; however, amounts
38 generated from nonvoter approved taxes authorized under chapter 35.57

1 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW do
2 not constitute a public or private source. For the purpose of this
3 section, public or private sources includes, but is not limited to cash
4 or in-kind contributions used in all phases of the development or
5 improvement of the regional center, land that is donated and used for
6 the siting of the regional center, cash or in-kind contributions from
7 public or private foundations, or amounts attributed to private sector
8 partners as part of a public and private partnership agreement
9 negotiated by the public facilities district.

10 ~~((+6))~~ (5) The combined total tax levied under this section may
11 not be greater than ~~((0.037))~~ 0.033 percent. If both a public
12 facilities district created under chapter 35.57 RCW and a public
13 facilities district created under chapter 36.100 RCW impose a tax under
14 this section, the tax imposed by a public facilities district created
15 under chapter 35.57 RCW must be credited against the tax imposed by a
16 public facilities district created under chapter 36.100 RCW.

17 ~~((+7))~~ (6) A public facilities district created under chapter
18 36.100 RCW is not eligible to impose the tax under this section if the
19 legislative authority of the county where the public facilities
20 district is located has imposed a sales and use tax under RCW
21 82.14.0485 or 82.14.0494.

22 NEW SECTION. **Sec. 3.** The following acts or parts of acts are each
23 repealed:

24 (1) RCW 82.14.490 (Sourcing--Sales and use taxes) and 2007 c 6 s
25 503;

26 (2) RCW 82.14.495 (Streamlined sales and use tax mitigation
27 account--Creation) and 2010 1st sp.s. c 37 s 952, 2009 c 4 s 907, &
28 2007 c 6 s 902;

29 (3) RCW 82.14.500 (Streamlined sales and use tax mitigation
30 account--Funding--Determination of losses) and 2011 1st sp.s. c 50 s
31 974 & 2007 c 6 s 903;

32 (4) RCW 82.32.730 (Sourcing--Streamlined sales and use tax
33 agreement) and 2010 c 106 s 229;

34 (5) RCW 82.32.755 (Sourcing compliance--Taxpayer relief--Interest
35 and penalties--Streamlined sales and use tax agreement) and 2007 c 6 s
36 1601; and

1 (6) RCW 82.32.760 (Sourcing compliance--Taxpayer relief--Credits--
2 Streamlined sales and use tax agreement) and 2007 c 6 s 1602.

3 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2014, if
4 congress does not pass legislation by July 1, 2013, requiring remote
5 sellers to collect the retail sales tax, use tax, or other similar tax
6 from states to which they sell, but do not have a physical presence in
7 such state.

8 NEW SECTION. **Sec. 5.** Prior to August 1, 2013, the department of
9 revenue must provide notice of whether the contingency in section 4 of
10 this act occurs to affected parties, the chief clerk of the house of
11 representatives, the secretary of the senate, the office of the code
12 reviser, and others as deemed appropriate by the department.

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