

**HB 2036 - H AMD 508**

By Representative Carlyle

ADOPTED 06/06/2013

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read  
4 as follows:

5 (1) Subject to the conditions and limitations in this section, an  
6 exemption from the tax levied by RCW 82.08.020 ((does not apply to)) in  
7 the form of a remittance from the department is provided for sales to  
8 nonresidents of this state of tangible personal property, digital  
9 goods, and digital codes(~~(, when))~~). The exemption only applies if:

10 (a) The property is for use outside this state;

11 (b) The purchaser is a bona fide resident of a province or  
12 territory of Canada or a state, territory, or possession of the United  
13 States, other than the state of Washington; and

14 (i) Such state, possession, territory, or province does not impose,  
15 or have imposed on its behalf, a generally applicable retail sales tax,  
16 use tax, value added tax, gross receipts tax on retailing activities,  
17 or similar generally applicable tax, of three percent or more; or

18 (ii) If imposing a tax described in (b)(i) of this subsection,  
19 provides an exemption for sales to Washington residents by reason of  
20 their residence; and

21 (c) The purchaser agrees, when requested, to grant the department  
22 of revenue access to such records and other forms of verification at  
23 (~~his or her~~) the purchaser's place of residence to assure that such  
24 purchases are not first used substantially in the state of Washington.

25 (2) Notwithstanding anything to the contrary in this chapter, if  
26 parts or other tangible personal property are installed by the seller  
27 during the course of repairing, cleaning, altering, or improving motor  
28 vehicles, trailers, or campers and the seller makes a separate charge  
29 for the tangible personal property, the tax levied by RCW 82.08.020  
30 does not apply to the separately stated charge to a nonresident

1 purchaser for the tangible personal property but only if the separately  
2 stated charge does not exceed either the seller's current publicly  
3 stated retail price for the tangible personal property or, if no  
4 publicly stated retail price is available, the seller's cost for the  
5 tangible personal property. However, the exemption provided by this  
6 section does not apply if tangible personal property is installed by  
7 the seller during the course of repairing, cleaning, altering, or  
8 improving motor vehicles, trailers, or campers and the seller makes a  
9 single nonitemized charge for providing the tangible personal property  
10 and service. All of the ~~((requirements))~~ provisions in subsections (1)  
11 and (3) through ~~((+6))~~ (7) of this section apply to this subsection.

12 (3)(a) Any person claiming exemption from retail sales tax under  
13 the provisions of this section must ~~((display proof of his or her  
14 current nonresident status as provided in this section))~~ pay the state  
15 and local sales tax to the seller at the time of purchase and then  
16 request a remittance from the department in accordance with this  
17 subsection and subsection (4) of this section. A request for  
18 remittance must include proof of the person's status as a nonresident  
19 at the time of the purchase for which a remittance is requested. The  
20 request for a remittance must also include any additional information  
21 and documentation as required by the department, which may include a  
22 description of the item purchased for which a remittance is requested,  
23 the sales price of the item, the amount of state and local sales tax  
24 paid on the item, the date of the purchase, the name of the seller and  
25 the physical address where the sale took place, and copies of sales  
26 receipts showing the qualified purchases.

27 (b) Acceptable proof of a nonresident person's status includes one  
28 piece of identification such as a valid driver's license from the  
29 jurisdiction in which the out-of-state residency is claimed or a valid  
30 identification card which has a photograph of the holder and is issued  
31 by the out-of-state jurisdiction. Identification under this subsection  
32 (3)(b) must show the holder's residential address and have as one of  
33 its legal purposes the establishment of residency in that out-of-state  
34 jurisdiction.

35 ~~((c) In lieu of furnishing proof of a person's nonresident status  
36 under (b) of this subsection (3), a person claiming exemption from  
37 retail sales tax under the provisions of this section may provide the~~

1 ~~seller with an exemption certificate in compliance with subsection~~  
2 ~~(4)(b) of this section.)~~

3 ~~(4)(a) ((Nothing in this section requires the vendor to make tax~~  
4 ~~exempt retail sales to nonresidents. A vendor may choose to make sales~~  
5 ~~to nonresidents, collect the sales tax, and remit the amount of sales~~  
6 ~~tax collected to the state as otherwise provided by law. If the vendor~~  
7 ~~chooses to make a sale to a nonresident without collecting the sales~~  
8 ~~tax, the vendor must examine the purchaser's proof of nonresidence,~~  
9 ~~determine whether the proof is acceptable under subsection (3)(b) of~~  
10 ~~this section, and maintain records for each nontaxable sale which shall~~  
11 ~~show the type of proof accepted, including any identification numbers~~  
12 ~~where appropriate, and the expiration date, if any.~~

13 ~~(b) In lieu of using the method provided in (a) of this subsection~~  
14 ~~to document an exempt sale to a nonresident, a seller may accept from~~  
15 ~~the purchaser a properly completed uniform exemption certificate~~  
16 ~~approved by the streamlined sales and use tax agreement governing board~~  
17 ~~or any other exemption certificate as may be authorized by the~~  
18 ~~department and properly completed by the purchaser. A nonresident~~  
19 ~~purchaser who uses an exemption certificate authorized in this~~  
20 ~~subsection (4)(b) must include the purchaser's driver's license number~~  
21 ~~or other state-issued identification number and the state of issuance.~~

22 ~~(c) In lieu of using the methods provided in (a) and (b) of this~~  
23 ~~subsection to document an exempt sale to a nonresident, a seller may~~  
24 ~~capture the relevant data elements as allowed under the streamlined~~  
25 ~~sales and use tax agreement.~~

26 ~~(5)(a) Any person making fraudulent statements, which includes the~~  
27 ~~offer of fraudulent identification or fraudulently procured~~  
28 ~~identification to a vendor, in order to purchase goods without paying~~  
29 ~~retail sales tax is guilty of perjury under chapter 9A.72 RCW.~~

30 ~~(b) Any person making tax exempt purchases under this section by~~  
31 ~~displaying proof of identification not his or her own, or counterfeit~~  
32 ~~identification, with intent to violate the provisions of this section,~~  
33 ~~is guilty of a misdemeanor and, in addition, is liable for the tax and~~  
34 ~~subject to a penalty equal to the greater of one hundred dollars or the~~  
35 ~~tax due on such purchases.~~

36 ~~(6)(a) Any vendor who makes sales without collecting the tax and~~  
37 ~~who fails to maintain records of sales to nonresidents as provided in~~  
38 ~~this section is personally liable for the amount of tax due.~~

1 ~~(b) Any vendor who makes sales without collecting the retail sales~~  
2 ~~tax under this section and who has actual knowledge that the~~  
3 ~~purchaser's proof of identification establishing out-of-state residency~~  
4 ~~is fraudulent is guilty of a misdemeanor and, in addition, is liable~~  
5 ~~for the tax and subject to a penalty equal to the greater of one~~  
6 ~~thousand dollars or the tax due on such sales. In addition, both the~~  
7 ~~purchaser and the vendor are liable for any penalties and interest~~  
8 ~~assessable under chapter 82.32 RCW.))~~ (i) Beginning January 1, 2014,  
9 through December 31, 2014, a person may request a remittance from the  
10 department for state and local sales taxes paid by the person on  
11 qualified retail purchases made in Washington between August 1, 2013,  
12 and December 31, 2013.

13 (ii) Beginning January 1, 2015, a person may request a remittance  
14 from the department during any calendar year for state and local sales  
15 taxes paid by the person on qualified retail purchases made in  
16 Washington during the immediately preceding calendar year only. No  
17 application may be made with respect to purchases made before the  
18 immediately preceding calendar year.

19 (b) The remittance request, including proof of nonresident status  
20 and any other documentation and information required by the department,  
21 must be provided in a form and manner as prescribed by the department.  
22 Only one remittance request may be made by a person per calendar year.

23 (c) The total amount of a remittance request must be at least  
24 twenty-five dollars. The department must deny any request for a  
25 remittance that is less than twenty-five dollars.

26 (d) The department will examine the applicant's proof of  
27 nonresident status and any other documentation and information as  
28 required in the application to determine whether the applicant is  
29 entitled to a remittance under this section.

30 (5)(a) Any person making fraudulent statements to the department,  
31 which includes the offer of fraudulent or fraudulently procured  
32 identification or fraudulent sales receipts, in order to receive a  
33 remittance of retail sales tax is guilty of perjury under chapter 9A.72  
34 RCW.

35 (b) Any person requesting a remittance of sales tax from the  
36 department by providing proof of identification or sales receipts not  
37 the person's own, or counterfeit identification or sales receipts, with  
38 intent to violate the provisions of this section, is guilty of a

1 misdemeanor and, in addition, is liable for the tax and subject to a  
2 penalty equal to the greater of one hundred dollars or the tax due on  
3 such purchases.

4 (6) The exemption provided by this section is for both state and  
5 local sales taxes. For purposes of this section, "local sales tax"  
6 means a sales tax imposed by a local government under the authority of  
7 chapter 82.14 RCW, RCW 81.104.170, or other provision of law, and which  
8 is imposed on the same taxable event as the state sales tax imposed in  
9 this chapter.

10 (7) A nonresident who receives a refund of sales tax from the  
11 seller for any reason with respect to a purchase made in this state is  
12 not entitled to a remittance for the tax paid on the purchase. A  
13 person who receives both a remittance under this section and a refund  
14 from the seller with respect to the same purchase must immediately  
15 repay the remittance to the department. Interest as provided in  
16 chapter 82.32 RCW applies to amounts due under this section from the  
17 date that the department made the remittance until the amount due under  
18 this subsection is paid to the department. A person who receives a  
19 remittance with respect to a purchase for which the person had, at the  
20 time the person submitted the application for a remittance, already  
21 received a refund of sales tax from the seller is also liable for the  
22 evasion penalty in RCW 82.32.090(7) and is ineligible to receive any  
23 further remittances from the department under this section.

24 NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW  
25 to read as follows:

26 (1) By the last workday of the second and fourth calendar quarters,  
27 the state treasurer must transfer the amount specified in subsection  
28 (2) of this section from the general fund to the education legacy trust  
29 account. The first transfer under this subsection (1) must occur by  
30 December 31, 2013.

31 (2) By December 15th and by June 15th of each year, the department  
32 must estimate the increase in state general fund revenues from the  
33 changes made under section 1 of this act for the current and prior  
34 calendar quarters and notify the state treasurer of the increase.

35 NEW SECTION. Sec. 3. A new section is added to chapter 43.135 RCW  
36 to read as follows:

1 RCW 43.135.034(4) does not apply to the transfers under section 2  
2 of this act.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.42 RCW  
4 to read as follows:

5 The purpose of narrowing the tax preference in section 1 of this  
6 act is to support education-related expenditures from the education  
7 legacy trust account. For this reason, general state revenues  
8 transferred to the education legacy trust account under section 2 of  
9 this act are excluded from the calculation of general state revenues  
10 for purposes of Article VIII, section 1 of the state Constitution and  
11 RCW 39.42.130 and 39.42.140.

12 **Sec. 5.** RCW 82.14.050 and 2012 1st sp.s. c 9 s 1 are each amended  
13 to read as follows:

14 (1) The counties, cities, and transportation authorities under RCW  
15 82.14.045, public facilities districts under chapters 36.100 and 35.57  
16 RCW, public transportation benefit areas under RCW 82.14.440, regional  
17 transportation investment districts, and transportation benefit  
18 districts under chapter 36.73 RCW must contract, prior to the effective  
19 date of a resolution or ordinance imposing a sales and use tax, the  
20 administration and collection to the state department of revenue, which  
21 must deduct a percentage amount, as provided by contract, not to exceed  
22 two percent of the taxes collected for administration and collection  
23 expenses incurred by the department. The remainder of any portion of  
24 any tax authorized by this chapter that is collected by the department  
25 of revenue must be deposited by the state department of revenue in the  
26 local sales and use tax account hereby created in the state treasury.  
27 Beginning January 1, 2013, the department of revenue must make deposits  
28 in the local sales and use tax account on a monthly basis on the last  
29 business day of the month in which distributions required in (a) of  
30 this subsection are due. Moneys in the local sales and use tax account  
31 may be withdrawn only for:

32 (a) Distribution to counties, cities, transportation authorities,  
33 public facilities districts, public transportation benefit areas,  
34 regional transportation investment districts, and transportation  
35 benefit districts imposing a sales and use tax; and

1 (b) Making refunds of taxes imposed under the authority of this  
2 chapter and RCW 81.104.170 and exempted under RCW 82.08.273, 82.08.962  
3 (~~and~~), or 82.12.962.

4 (2) All administrative provisions in chapters 82.03, 82.08, 82.12,  
5 and 82.32 RCW, as they now exist or may hereafter be amended, insofar  
6 as they are applicable to state sales and use taxes, are applicable to  
7 taxes imposed pursuant to this chapter.

8 (3) Counties, cities, transportation authorities, public facilities  
9 districts, and regional transportation investment districts may not  
10 conduct independent sales or use tax audits of sellers registered under  
11 the streamlined sales tax agreement.

12 (4) Except as provided in RCW 43.08.190 and subsection (5) of this  
13 section, all earnings of investments of balances in the local sales and  
14 use tax account must be credited to the local sales and use tax account  
15 and distributed to the counties, cities, transportation authorities,  
16 public facilities districts, public transportation benefit areas,  
17 regional transportation investment districts, and transportation  
18 benefit districts monthly.

19 (5) Beginning January 1, 2013, the state treasurer must determine  
20 the amount of earnings on investments that would have been credited to  
21 the local sales and use tax account if the collections had been  
22 deposited in the account over the prior month. When distributions are  
23 made under subsection (1)(a) of this section, the state treasurer must  
24 transfer this amount from the state general fund to the local sales and  
25 use tax account and must distribute such sums to the counties, cities,  
26 transportation authorities, public facilities districts, public  
27 transportation benefit areas, regional transportation investment  
28 districts, and transportation benefit districts.

29 **Sec. 6.** RCW 82.14.060 and 2009 c 469 s 108 are each amended to  
30 read as follows:

31 (1)(a) Monthly, the state treasurer must distribute from the local  
32 sales and use tax account to the counties, cities, transportation  
33 authorities, public facilities districts, and transportation benefit  
34 districts the amount of tax collected on behalf of each taxing  
35 authority, less:

36 (i) The deduction provided for in RCW 82.14.050; and

1 (ii) The amount of any refunds of local sales and use taxes  
2 exempted under RCW 82.08.273, 82.08.962 (~~and~~), or 82.12.962, which  
3 must be made without appropriation.

4 (b) The state treasurer shall make the distribution under this  
5 section without appropriation.

6 (2) In the event that any ordinance or resolution imposes a sales  
7 and use tax at a rate in excess of the applicable limits contained  
8 herein, such ordinance or resolution shall not be considered void in  
9 toto, but only with respect to that portion of the rate which is in  
10 excess of the applicable limits contained herein.

11 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of the  
13 state government and its existing public institutions, and takes effect  
14 August 1, 2013."

15 Correct the title.

EFFECT: Eliminates all provisions of the bill except for the  
provision changing the nonresident sales tax exemption into a refund  
program. Makes technical corrections.

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