Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1695

Brief Description: Concerning the excise taxation of crowdfunding donations.

Sponsors: Representatives Stokesbary, Springer and Frame.

Brief Summary of Bill

- Exempts qualifying rewards provided pursuant to reward-based crowdfunding from sales and use tax.

Hearing Date: 2/7/17

Staff: Tracey O'Brien (786-7152).

Background:

Crowdfunding.
Crowdfunding is the practice of funding a project or venture by raising monetary contributions from a large number of people. The funding does not have to be paid back; however, the donor often gets something of value. There are two primary forms of crowdfunding: reward-based and equity.

Reward-based crowdfunding occurs when a business or nonprofit has a project that needs funding. In most cases, they will post the project on a crowdfunding platform. The crowdfunding opportunity is shared with friends, family, fans, and other potential donors. In return for donating to the project, donors receive a reward based on the amount of funding they commit. Rewards do not have to be substantial. Typically, the rewards are distributed within the months following a successfully funded project. This method works best for business-to-consumer campaigns that are seeking less than $100,000.

Equity crowdfunding occurs when there is a collective effort of individuals to support efforts initiated by other people or organizations through the provision of finance in the form of equity. Under the Securities Act of 1933, the offer and sale of securities must be registered with the

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United States Securities and Exchange Commission (SEC) unless a specific exemption is provided. In 2012 Congress granted crowdfunding an exemption in Title III of the Jumpstart Our Business Startups Act (JOBS Act). Under the JOBS Act, a company issuing securities via crowdfunding is permitted to raise a maximum aggregate amount of $1 million in a 12 month period without have to register the offer and sale with the SEC. There are additional rules set out in Regulation Crowdfunding, adopted by the SEC on May 13, 2016, that include issuer disclosure, advertising, and issuer limits. In 2014 Washington adopted an exemption for equity crowdfunding from the Securities Act of Washington similar to that included in the JOBS Act.

Retail Sales and Use Tax.
Retail sales taxes are imposed on retail sales of most articles of tangible personal property, 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 user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary depending on the location.

Summary of Bill:

Sales and use taxes do not apply to qualifying crowdfunding donations to donees made after July 1, 2017.

A qualifying donation is defined as a contribution made by a donor to a donee through a crowdfunding website. A donation where the donee provides the donor with a reward in recognition of the donation is a qualifying donation so long as the value of the reward does not exceed the lesser of $5,000 or 75 percent of the donation value, and the reward is not provided or sold in the donee's regular course of business.

This sales and use tax exemption is not subject to the statutory requirements for a tax preference performance statement, a review by the Joint Legislative Audit and Review Committee, and a 10 year expiration.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2017.