

# SENATE BILL REPORT

## SB 5997

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As of April 7, 2019

**Title:** An act relating to eliminating or narrowing certain tax preferences to increase state revenue for essential public services.

**Brief Description:** Eliminating or narrowing certain tax preferences to increase state revenue for essential public services.

**Sponsors:** Senators Rolfes and Hunt.

**Brief History:**

**Committee Activity:** Ways & Means: 4/08/19.

**Brief Summary of Bill**

- Converts the nonresident sales tax exemption to a remittance program.
- Eliminates the preferential business and occupation tax rate for travel agents and tour operators.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Alia Kennedy (786-7405)

**Background:** 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 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.

*Sales to Nonresident from No or Low Sales Tax States.* Retail sales tax does not apply to purchases of certain goods made by nonresidents for use outside of the state. Nonresidents includes persons from other states, possessions, or territories of the United States, or Canadian provinces or territories, that do not impose a sales, use, value-added, or similar tax at a rate of three percent or more.

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The tax exemption applies to the purchases of tangible personal property, digital goods, digital codes, and certain parts or property installed by the seller while repairing, cleaning or altering motor vehicles, trailers, or campers in Washington. The tax exemption does not apply to retail services, such as lodging, cleaning or repair services, or amusement or recreational services, or items used or consumed in Washington, such as meals or beverages, goods sold to military personnel stationed in Washington, or goods sold to students attending school in the state. The nonresident buyer must provide to the seller valid picture identification or an authorized exemption certificate in order to make a tax exempt purchase.

Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even if they do not make any profits or are operating at a loss. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and activities not classified elsewhere. Several preferential rates also apply to specific business activities.

*Preferential Tax Rate for Travel Agents and Tour Operators.* Travel agents and tour operators are subject to a preferential B&O tax rate of 0.275 percent. Without the tax preference, these businesses would be classified under general services and taxed at a rate of 1.5 percent on gross receipts.

Travel agents arrange transportation and accommodations on behalf of their customers. Travel agents may receive commissions from service providers, for example, cruise lines or hotels, and may charge fees to their customers. The B&O tax applies to these commissions and fees rather than to the price of the underlying ticket or room.

Tour operators, in contrast, sell transportation and accommodations to customers that the tour operators provide themselves or purchase from third-party providers. Unlike travel agents, tour operators are personally liable for the services purchased from third-party providers when a customer cancels. Also unlike travel agents, the B&O tax applies to the price the customer pays for the ticket or room.

**Summary of Bill:** The nonresident sales tax exemption is converted to a remittance program. Refunds may only be requested by nonresidents for the immediately preceding calendar year, and must be for at least \$25. In addition, a nonresident may only make one refund request per calendar year. The request must include proof of nonresident status as prescribed by the Department of Revenue. Penalties are created for making fraudulent statements or submitting fraudulent documents.

The preferential B&O rate for travel agents and tour operators is eliminated.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2019.