

# SENATE BILL REPORT

## SB 5997

---

As Reported by Senate Committee On:  
Ways & Means, April 18, 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, 4/18/19 [DPS, DNP].

**Brief Summary of First Substitute Bill**

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

---

### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5997 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Billig, Carlyle, Conway, Darneille, Hasegawa, Hunt, Keiser, Lias, Palumbo, Pedersen and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Bailey, Becker, Schoesler, Wagoner, Warnick and Wilson, L..

**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

---

*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.*

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.

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 (First Substitute):** 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.

Beginning July 1, 2019, the preferential B&O rate for travel agents and tour operators is increased from 0.275 to 0.9 percent.

**EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (First Substitute):**

- Increases the B&O tax rate for travel agents and tour operators from 0.275 percent to 0.9 percent, beginning July 1, 2019.

**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.

**Staff Summary of Public Testimony:** PRO: This bill generates significant revenue important to this state. The revenue bills introduced this session are thoughtful tax policy and reflect people's ability to pay. This is an improvement to Washington's tax code and strengthens the adequacy of revenue to promote social services.

CON: The bill has a negative impact on Washington cities and the state as a whole. Cities along the Oregon border report that over half of their customers are from outside the state. This tax preference was reviewed and determined it was meeting its public policy objective and thus was recommended it continue. Very few people will use the remittance program. Another good example of using a tax study to inform the policy. We do not know how this legislation will impact the practices of people coming in state to shop. The bill will be devastating to the travel industry in Washington and force businesses out of state. This bill hurts small businesses that work in the travel industry.

OTHER: Keeping the classification the same for travel agents and tour operators is the best approach. The current rate may not fit the industry today, but doubling the rate is not the answer.

**Persons Testifying:** PRO: Donna Patrick, Developmental Disabilities Council; Nick Federici, Balance Our Tax Code.

CON: Mark Johnson, Washington Retail; Clay Hill, AWB; Patrick Connor, NFIB Washington; Ann Chamberlin, American Society of Travel Advisors, Senior Vice President; Dan Smith, Caribbean Adventures, Travel By Dan; Shawn van der Putten, American Society of Travel Advisors; Scott Hazlegrove, Washington State Auto Dealers Association; Amber Carter, Identity Clark County.

OTHER: Richard Lazaro, Expedia Group.

**Persons Signed In To Testify But Not Testifying:** No one.