
HOUSE BILL 2618

State of Washington

66th Legislature

2020 Regular Session

By Representatives Shewmake, Van Werven, and Leavitt

Read first time 01/16/20. Referred to Committee on Finance.

1 AN ACT Relating to restoring the nonresident retail sales tax
2 exemption; amending RCW 82.08.0273; adding a new section to chapter
3 82.08 RCW; creating a new section; prescribing penalties; providing
4 an effective date; and providing an expiration date.

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

6 **Sec. 1.** RCW 82.08.0273 and 2019 c 423 s 101 are each amended to
7 read as follows:

8 (1) Subject to the conditions and limitations in this section, an
9 exemption from the tax levied by RCW 82.08.020 in the form of a
10 remittance from the department is provided for sales to nonresidents
11 of this state of tangible personal property, digital goods, and
12 digital codes, purchased prior to July 1, 2020. The exemption only
13 applies if:

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

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

18 (i) Such state, possession, territory, or province does not
19 impose, or have imposed on its behalf, a generally applicable retail
20 sales tax, use tax, value added tax, gross receipts tax on retailing

1 activities, or similar generally applicable tax, of three percent or
2 more; or

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

6 (c) The purchaser agrees, when requested, to grant the department
7 of revenue access to such records and other forms of verification at
8 the purchaser's place of residence to assure that such purchases are
9 not first used substantially in the state of Washington.

10 (2) Notwithstanding anything to the contrary in this chapter, if
11 parts or other tangible personal property are installed by the seller
12 during the course of repairing, cleaning, altering, or improving
13 motor vehicles, trailers, or campers and the seller makes a separate
14 charge for the tangible personal property, the tax levied by RCW
15 82.08.020 does not apply to the separately stated charge to a
16 nonresident purchaser for the tangible personal property but only if
17 the seller certifies in writing to the purchaser that the separately
18 stated charge does not exceed either the seller's current publicly
19 stated retail price for the tangible personal property or, if no
20 publicly stated retail price is available, the seller's cost for the
21 tangible personal property. However, the exemption provided by this
22 section does not apply if tangible personal property is installed by
23 the seller during the course of repairing, cleaning, altering, or
24 improving motor vehicles, trailers, or campers and the seller makes a
25 single nonitemized charge for providing the tangible personal
26 property and service. All of the provisions in subsections (1) and
27 (3) through (7) of this section apply to this subsection.

28 (3)(a) Any person claiming exemption from retail sales tax under
29 the provisions of this section must pay the state and local sales tax
30 to the seller at the time of purchase and then request a remittance
31 from the department in accordance with this subsection and subsection
32 (4) of this section. A request for remittance must include proof of
33 the person's status as a nonresident at the time of the purchase for
34 which a remittance is requested. The request for a remittance must
35 also include any additional information and documentation as required
36 by the department, which may include a description of the item
37 purchased for which a remittance is requested, the sales price of the
38 item, the amount of sales tax paid on the item, the date of the
39 purchase, the name of the seller and the physical address where the

1 sale took place, and copies of sales receipts showing the qualified
2 purchases.

3 (b) Acceptable proof of a nonresident person's status includes
4 one piece of identification such as a valid driver's license from the
5 jurisdiction in which the out-of-state residency is claimed or a
6 valid identification card which has a photograph of the holder and is
7 issued by the out-of-state jurisdiction. Identification under this
8 subsection (3)(b) must show the holder's residential address and have
9 as one of its legal purposes the establishment of residency in that
10 out-of-state jurisdiction.

11 (4)(a) ~~((i))~~ Beginning January 1, 2020, through December 31,
12 2020, a person may request a remittance from the department for state
13 sales taxes paid by the person on qualified retail purchases made in
14 Washington between July 1, 2019, and ~~((December 31, 2019))~~ June 30,
15 2020.

16 ~~((ii) Beginning January 1, 2021, a person may request a
17 remittance from the department during any calendar year for state
18 sales taxes paid by the person on qualified retail purchases made in
19 Washington during the immediately preceding calendar year only. No
20 application may be made with respect to purchases made before the
21 immediately preceding calendar year.))~~

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

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

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

34 (5)(a) Any person making fraudulent statements to the department,
35 which includes the offer of fraudulent or fraudulently procured
36 identification or fraudulent sales receipts, in order to receive a
37 remittance of retail sales tax is guilty of perjury under chapter
38 9A.72 RCW and is ineligible to receive any further remittances from
39 the department under this section.

1 (b) Any person obtaining a remittance of retail sales tax from
2 the department by providing proof of identification or sales receipts
3 not the person's own, or counterfeit identification or sales receipts
4 is (i) liable for repayment of the remittance, including interest as
5 provided in chapter 82.32 RCW from the date the remittance was
6 transmitted to the person until repaid in full, (ii) liable for a
7 civil penalty equal to the greater of one hundred dollars or the
8 amount of the remittance obtained in violation of this subsection
9 (5)(b), and (iii) ineligible to receive any further remittances from
10 the department under this section.

11 (c) Any person assisting another person in obtaining a remittance
12 of retail sales tax in violation of (b) of this subsection is jointly
13 and severally liable for amounts due under (b) of this subsection and
14 is also ineligible to receive any further remittances from the
15 department under this section.

16 (6) A person who receives a refund of sales tax from the seller
17 for any reason with respect to a purchase made in this state is not
18 entitled to a remittance for the tax paid on the purchase. A person
19 who receives both a remittance under this section and a refund of
20 sales tax from the seller with respect to the same purchase must
21 immediately repay the remittance to the department. Interest as
22 provided in chapter 82.32 RCW applies to amounts due under this
23 section from the date that the department made the remittance until
24 the amount due under this subsection is paid to the department. A
25 person who receives a remittance with respect to a purchase for which
26 the person had, at the time the person submitted the application for
27 a remittance, already received a refund of sales tax from the seller
28 is also liable for a civil penalty equal to the greater of one
29 hundred dollars or the amount of the remittance obtained in violation
30 of this subsection and is ineligible to receive any further
31 remittances from the department under this section.

32 (7) The exemption provided by this section is only for the state
33 portion of the sales tax. For purposes of this section, the state
34 portion of the sales tax is not reduced by any local sales tax that
35 is deducted or credited against the state sales tax as provided by
36 law.

37 (8) The exemption in this section does not apply to sales of
38 marijuana, useable marijuana, or marijuana-infused products.

39 (9) This section expires January 1, 2021.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08
2 RCW to read as follows:

3 (1) The tax levied by RCW 82.08.020 does not apply to sales to
4 nonresidents of this state of tangible personal property, digital
5 goods, and digital codes, purchased on or after July 1, 2020, when:

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

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

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

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

18 (c) The purchaser agrees, when requested, to grant the department
19 access to such records and other forms of verification at the
20 purchaser's place of residence to assure that such purchases are not
21 first used substantially in the state of Washington.

22 (2) Notwithstanding anything to the contrary in this chapter, if
23 parts or other tangible personal property are installed by the seller
24 during the course of repairing, cleaning, altering, or improving
25 motor vehicles, trailers, or campers and the seller makes a separate
26 charge for the tangible personal property, the tax levied by RCW
27 82.08.020 does not apply to the separately stated charge to a
28 nonresident purchaser for the tangible personal property but only if
29 the seller certifies in writing to the purchaser that the separately
30 stated charge does not exceed either the seller's current publicly
31 stated retail price for the tangible personal property or, if no
32 publicly stated retail price is available, the seller's cost for the
33 tangible personal property. However, the exemption provided by this
34 section does not apply if tangible personal property is installed by
35 the seller during the course of repairing, cleaning, altering, or
36 improving motor vehicles, trailers, or campers and the seller makes a
37 single nonitemized charge for providing the tangible personal
38 property and service. All of the provisions in subsections (1) and
39 (3) through (7) of this section apply to this subsection.

1 (3) (a) Any person claiming exemption from retail sales tax under
2 the provisions of this section must display proof of his or her
3 current nonresident status as provided in this section.

4 (b) Acceptable proof of a nonresident person's status includes
5 one piece of identification such as a valid driver's license from the
6 jurisdiction in which the out-of-state residency is claimed or a
7 valid identification card which has a photograph of the holder and is
8 issued by the out-of-state jurisdiction. Identification under this
9 subsection (3) (b) must show the holder's residential address and have
10 as one of its legal purposes the establishment of residency in that
11 out-of-state jurisdiction.

12 (c) In lieu of furnishing proof of a person's nonresident status
13 under (b) of this subsection, a person claiming exemption from retail
14 sales tax under the provisions of this section may provide the seller
15 with an exemption certificate in compliance with subsection (4) (b) of
16 this section.

17 (4) (a) Nothing in this section requires the vendor to make tax
18 exempt retail sales to nonresidents. A vendor may choose to make
19 sales to nonresidents, collect the sales tax, and remit the amount of
20 sales tax collected to the state as otherwise provided by law. If the
21 vendor chooses to make a sale to a nonresident without collecting the
22 sales tax, the vendor must examine the purchaser's proof of
23 nonresidence, determine whether the proof is acceptable under
24 subsection (3) (b) of this section, and maintain records for each
25 nontaxable sale which must show the type of proof accepted, including
26 any identification numbers where appropriate, and the expiration
27 date, if any.

28 (b) In lieu of using the method provided in (a) of this
29 subsection to document an exempt sale to a nonresident, a seller may
30 accept from the purchaser a properly completed uniform exemption
31 certificate approved by the streamlined sales and use tax agreement
32 governing board or any other exemption certificate as may be
33 authorized by the department and properly completed by the purchaser.
34 A nonresident purchaser who uses an exemption certificate authorized
35 in this subsection (4) (b) must include the purchaser's driver's
36 license number or other state-issued identification number and the
37 state of issuance.

38 (c) In lieu of using the methods provided in (a) and (b) of this
39 subsection to document an exempt sale to a nonresident, a seller may

1 capture the relevant data elements as allowed under the streamlined
2 sales and use tax agreement.

3 (5) (a) Any person making fraudulent statements, which includes
4 the offer of fraudulent or fraudulently procured identification or
5 fraudulent sales receipts, in order to purchase goods without paying
6 retail sales tax, is guilty of perjury under chapter 9A.72 RCW.

7 (b) Any person making tax exempt purchases under this section by
8 providing proof of identification not the person's own, or
9 counterfeit identification is (i) liable for repayment of the tax or
10 remittance, including interest as provided in chapter 82.32 RCW from
11 the date the remittance was transmitted to the person until repaid in
12 full, and (ii) liable for a civil penalty equal to the greater of one
13 hundred dollars or the amount of the tax due or remittance obtained
14 in violation of this subsection (5) (b).

15 (c) Any person assisting another person in obtaining an exemption
16 of retail sales tax in violation of (b) of this subsection is jointly
17 and severally liable for amounts due under (b) of this subsection.

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

21 (b) Any vendor who makes sales without collecting the retail
22 sales tax under this section and who has actual knowledge that the
23 purchaser's proof of identification establishing out-of-state
24 residency is fraudulent is guilty of a misdemeanor and, in addition,
25 is liable for the tax and subject to a penalty equal to the greater
26 of one thousand dollars or the tax due on such sales. In addition,
27 both the purchaser and the vendor are liable for any penalties and
28 interest assessable under chapter 82.32 RCW.

29 (7) The exemption provided by this section is only for the state
30 portion of the sales tax. For purposes of this section, the state
31 portion of the sales tax is not reduced by any local sales tax that
32 is deducted or credited against the state sales tax as provided by
33 law.

34 (8) The exemption in this section does not apply to sales of
35 marijuana, useable marijuana, or marijuana-infused products.

36 NEW SECTION. **Sec. 3.** Section 2 of this act takes effect July 1,
37 2020.

1 NEW SECTION. **Sec. 4.** The provisions of RCW 82.32.805 and
2 82.32.808 do not apply to this act.

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