
Finance Committee

HB 1557

Brief Description: Concerning the classification of digital processing services.

Sponsors: Representatives Santos, Corry, Walen, Orcutt, Chapman, Springer, Connors, Ryu, Reeves, McClintock, Cheney and Stokesbary.

Brief Summary of Bill
<ul style="list-style-type: none">Expands a retail sales and use tax exemption to include digital automated services purchased by a financial institution solely used for business purposes.

Hearing Date: 2/9/23

Staff: Kristina King (786-7190).

Background:

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 tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.0 percent, depending on the location.

Retail Sales Tax on Digital Goods and Services.

In 2009, legislation was enacted that addressed taxation of digital products and services. Retail sales tax is due on retail sales of digital goods, digital automated services (DAS), digital codes,

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

and services provided by the seller exclusively in connection with digital products. The legislation included the definition of DAS to mean any service transferred electronically that uses one or more software applications. Certain digital products are exempted from retail sales and use tax, including:

- digital products purchased for resale, and digital products incorporated as an ingredient or component of another product for resale;
- digital products provided free of charge;
- sales of radio and television broadcast programming by a radio or television broadcaster including broadcasts on a pay-per-program basis if the sale of the programming is subject to a franchise fee; and
- standard digital information purchased solely for business purposes. "Standard digital information" is defined as a digital good consisting primarily of data, facts, or information that is not generated for a specific client or customer.

Payment processing services, which include electronic credit card processing and data processing, are excluded from the definition of both DAS and retail sale for the purposes of taxation. These services are not subject to retail sales and use tax.

In 2022, the Department of Revenue determined that an online banking platform for a financial institution was not eligible for a DAS exemption.

Bundled Transactions.

When a retail sale occurs on two or more items for one nonitemized price (a bundled transaction), all items or services included in the transaction are subject to retail sales tax. Bundled transactions that include goods or services, which would normally be exempted in a non-bundled transaction, are subject to retail sales tax if they are bundled with items that otherwise would be subject to retail sales tax in a non-bundled transaction.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

The sales and use tax exemption for sales to a business of digital goods and related services solely for business purposes is extended to include digital automated services purchased by a financial institution solely for business purposes. The expansion of the exemption is excluded

from tax preference performance requirements.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.