
HOUSE BILL 2117

State of Washington 62nd Legislature 2011 1st Special Session

By Representatives Moeller, Hasegawa, Carlyle, Jinkins, Green, Appleton, Ormsby, Tharinger, Lytton, Billig, Ryu, Moscoso, Ladenburg, Hunt, McCoy, Roberts, and Rolfes

Read first time 05/17/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to establishing an application process for the
2 nonresident sales tax exemption; amending RCW 82.08.0273; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read
6 as follows:

7 (1) Subject to the conditions and limitations in this section, an
8 exemption from the tax levied by RCW 82.08.020 ((does not apply to)) in
9 the form of a remittance from the department is provided for sales to
10 nonresidents of this state of tangible personal property, digital
11 goods, and digital codes, when:

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

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

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

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

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

8 (2) Notwithstanding anything to the contrary in this chapter, if
9 parts or other tangible personal property are installed by the seller
10 during the course of repairing, cleaning, altering, or improving motor
11 vehicles, trailers, or campers and the seller makes a separate charge
12 for the tangible personal property, the tax levied by RCW 82.08.020
13 does not apply to the separately stated charge to a nonresident
14 purchaser for the tangible personal property but only if the separately
15 stated charge does not exceed either the seller's current publicly
16 stated retail price for the tangible personal property or, if no
17 publicly stated retail price is available, the seller's cost for the
18 tangible personal property. However, the exemption provided by this
19 section does not apply if tangible personal property is installed by
20 the seller during the course of repairing, cleaning, altering, or
21 improving motor vehicles, trailers, or campers and the seller makes a
22 single nonitemized charge for providing the tangible personal property
23 and service. All of the (~~requirements~~) provisions in subsections (1)
24 and (3) through (~~(+6)~~) (7) of this section apply to this subsection.

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

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

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

11 ~~((c) In lieu of furnishing proof of a person's nonresident status~~
12 ~~under (b) of this subsection (3), a person claiming exemption from~~
13 ~~retail sales tax under the provisions of this section may provide the~~
14 ~~seller with an exemption certificate in compliance with subsection~~
15 ~~(4)(b) of this section.))~~

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

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

35 ~~(c) In lieu of using the methods provided in (a) and (b) of this~~
36 ~~subsection to document an exempt sale to a nonresident, a seller may~~
37 ~~capture the relevant data elements as allowed under the streamlined~~
38 ~~sales and use tax agreement.~~

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

5 ~~(b) Any person making tax exempt purchases under this section by~~
6 ~~displaying proof of identification not his or her own, or counterfeit~~
7 ~~identification, with intent to violate the provisions of this section,~~
8 ~~is guilty of a misdemeanor and, in addition, is liable for the tax and~~
9 ~~subject to a penalty equal to the greater of one hundred dollars or the~~
10 ~~tax due on such purchases.~~

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

14 ~~(b) Any vendor who makes sales without collecting the retail sales~~
15 ~~tax under this section and who has actual knowledge that the~~
16 ~~purchaser's proof of identification establishing out-of-state residency~~
17 ~~is fraudulent is guilty of a misdemeanor and, in addition, is liable~~
18 ~~for the tax and subject to a penalty equal to the greater of one~~
19 ~~thousand dollars or the tax due on such sales. In addition, both the~~
20 ~~purchaser and the vendor are liable for any penalties and interest~~
21 ~~assessable under chapter 82.32 RCW)) (a)(i) Beginning January 1, 2012,~~
22 ~~through December 31, 2012, a person may request a remittance from the~~
23 ~~department for state and local sales taxes paid by the person on~~
24 ~~qualified retail purchases made in Washington between July 1, 2011, and~~
25 ~~December 31, 2011.~~

26 (ii) Beginning January 1, 2013, a person may request a remittance
27 from the department during any calendar year for state and local sales
28 taxes paid by the person on qualified retail purchases made in
29 Washington during the immediately preceding calendar year only. No
30 application may be made with respect to purchases made before the
31 immediately preceding calendar year.

32 (b) The remittance request, including proof of nonresident status
33 and any other documentation and information required by the department,
34 must be made using an electronic application process as prescribed by
35 the department. Only one remittance request may be made by a person
36 per calendar year.

37 (c) The total amount of a remittance request must be at least

1 twenty-five dollars. The department must deny any request for a
2 remittance that is less than twenty-five dollars.

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

7 (5)(a) Any person making fraudulent statements to the department,
8 which includes the offer of fraudulent or fraudulently procured
9 identification or fraudulent sales receipts, in order to receive a
10 remittance of retail sales tax is guilty of perjury under chapter 9A.72
11 RCW.

12 (b) Any person requesting a remittance of sales tax from the
13 department by providing proof of identification or sales receipts not
14 the person's own, or counterfeit identification or sales receipts, with
15 intent to violate the provisions of this section, is guilty of a
16 misdemeanor and, in addition, is liable for the tax and subject to a
17 penalty equal to the greater of one hundred dollars or the tax due on
18 such purchases.

19 (6) The exemption provided by this section is for both state and
20 local sales taxes. For purposes of this section, "local sales tax"
21 means a sales tax imposed by a local government under the authority of
22 chapter 82.14 RCW, RCW 81.104.170, or other provision of law, and which
23 is imposed on the same taxable event as the state sales tax imposed in
24 this chapter.

25 (7) A nonresident who receives a refund of sales tax from the
26 seller for any reason with respect to a purchase made in this state is
27 not entitled to a remittance for the tax paid on the purchase. A
28 person who receives both a remittance under this section and a refund
29 from the seller with respect to the same purchase must immediately
30 repay the remittance to the department. Interest as provided in
31 chapter 82.32 RCW applies to amounts due under this section from the
32 date that the department made the remittance until the amount due under
33 this subsection is paid to the department. A person who receives a
34 remittance with respect to a purchase for which the person had, at the
35 time the person submitted the application for a remittance, already
36 received a refund of sales tax from the seller is also liable for the

1 evasion penalty in RCW 82.32.090(6) and is ineligible to receive any
2 further remittances from the department under this section.

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