S-1049.2

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**SUBSTITUTE SENATE BILL 5325**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Financial Institutions, Economic Development & Trade (originally sponsored by Senators Liias, Braun, Mullet, Palumbo, Brown, Rivers, and Warnick)

AN ACT Relating to exempting certain standard financial information purchased by investment management companies from sales and use tax in order to improve industry competitiveness; amending RCW 82.08.207 and 82.12.207; creating new sections; and providing expiration dates.

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

NEW SECTION. **Sec.**  (1) The legislature finds that a strong financial cluster is critical to the economic health of Washington state. The legislature further finds that anchor institutions are key to growing a strong financial cluster, including international investment management firms. Therefore, the legislature finds that maintaining a competitive tax policy in Washington state enables the state to maintain its anchor investment management firms.

(2) The legislature finds that standard financial information has not historically been subject to sales tax. In 2007 the legislature clarified that sales tax does not apply to electronically delivered standard financial information purchased by investment management companies or financial institutions. In 2013, the legislature provided clarification by passing a sales and use tax exemption for standard financial information purchased by investment management companies.

(3) The legislature further finds that taxation of such standard financial information would be uncompetitive and inconsistent with the fundamental structure of sales tax as a tax on retail transactions. Therefore, it is the legislature's intent to conform with a previously determined policy objective of exempting certain standard financial information purchased by investment management companies from sales and use tax in order to improve industry competitiveness.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preferences contained in sections 3 and 4, chapter . . ., Laws of 2019 (sections 3 and 4 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preferences. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes these tax preferences as ones intended to improve industry competitiveness, as indicated in RCW 82.32.808(2)(b) and to reduce structural inefficiencies in the tax structure as indicated in RCW 82.32.808(2)(d).

(3) It is the legislature's specific public policy objective to maintain a viable financial cluster. It is the legislature's intent to exempt sales and use taxes on sales of standard financial information to qualifying international investment management companies, in order to maintain the presence of at least one international investment management services firm headquartered in Washington state with at least two hundred billion dollars of assets under management.

(4) If a review finds that there is at least one international investment management services firm with at least two hundred billion dollars of assets under management headquartered in Washington state, then the legislature intends to extend the expiration date of the tax preferences.

**Sec.**  RCW 82.08.207 and 2013 2nd sp.s. c 13 s 702 are each amended to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to sales of standard financial information to qualifying international investment management companies or persons affiliated with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is provided to the buyer in a tangible format or on a tangible storage medium or as a digital product transferred electronically.

(2) Sellers making tax-exempt sales under this section must obtain an exemption certificate from the buyer in a form and manner prescribed by the department. The seller must retain a copy of the exemption certificate for the seller's files. In lieu of an exemption certificate, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement. For sellers who electronically file their taxes, the department must provide a separate tax reporting line for exemption amounts claimed under this section.

(3) A buyer may not continue to claim the exemption under this section once the buyer has purchased standard financial information during the current calendar year with an aggregate total selling price in excess of fifteen million dollars and an exemption has been claimed under this section or RCW 82.12.207 for such standard financial information. The fifteen million dollar limitation under this subsection does not apply to any other exemption under this chapter that applies to standard financial information. Sellers are not responsible for ensuring a buyer's compliance with the fifteen million dollar limitation under this subsection. Sellers may not be assessed for uncollected sales tax on a sale to a buyer claiming an exemption under this section after having exceeded the fifteen million dollar limitation under this subsection, except as provided in RCW 82.08.050 (4) and (5).

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a)(i) "Affiliated" means a person that, with respect to another person:

(A) Has an ownership interest of more than twenty percent, whether direct or indirect, in the other person; or

(B) Is related to the other person because:

(I) The other person has an ownership interest of at least twenty percent, whether direct or indirect, in the related person; or

(II) A third person, or group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than twenty percent, whether direct or indirect, in the related persons.

(ii) For the purposes of this subsection (4)(a):

(A) "Indirect ownership interest" means an ownership interest in a person by virtue of an ownership interest in an entity that has an ownership interest in the person or in an entity that has an indirect ownership interest in the person.

(B) "Ownership interest" means the possession of equity in the capital, the stock, or the profits of the other person.

(b)(i) "Qualifying international investment management company" means a person:

(A) Who is primarily engaged in the business of providing investment management services; and

(B) Who has gross income that is at least ten percent derived from providing investment management services to:

(I) Persons or collective investment funds residing outside the United States; or

(II) Collective investment funds with at least ten percent of their investments located outside the United States.

(ii) The definitions in RCW 82.04.293 apply to this subsection (4)((~~(a)~~)) (b).

((~~(b)~~)) (c)(i) "Standard financial information" means financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

(ii) For purposes of this subsection (4)((~~(b)~~)) (c), "financial market data" means market pricing information, such as for securities, commodities, and derivatives; corporate actions for publicly and privately traded companies, such as dividend schedules and reorganizations; corporate attributes, such as domicile, currencies used, and exchanges where shares are traded; and currency information.

(5) This section expires July 1, ((~~2021~~)) 2031.

**Sec.**  RCW 82.12.207 and 2013 2nd sp.s. c 13 s 703 are each amended to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of standard financial information by qualifying international investment management companies or persons affiliated with a qualifying international investment management company. The exemption provided in this section applies regardless of whether the standard financial information is in a tangible format or resides on a tangible storage medium or is a digital product transferred electronically to the qualifying international investment management company.

(2) The definitions, conditions, and requirements in RCW 82.08.207 apply to this section.

(3) This section expires July 1, ((~~2021~~)) 2031.

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