

HB 2428

Bill Analysis

January 28, 1998

Brief Description: Exempting fund-raising activities by nonprofit organizations from sales and use taxation.

Bill Sponsors: Representatives Boldt, Schoesler, Mulliken, McDonald, O'Brien, Dunshee, Cooke, Backlund, Dunn, Thompson and Eickmeyer; by request of Department of Revenue.

Staff: Linda Brooks, 786-7153.

Background: *Sales and Use Taxes.* The retail sales tax is imposed on retail sales of most articles of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total state and local sales tax rate ranges from 7 percent to 8.6 percent, depending on the location.

Sales tax applies when items are purchased at retail in the state. Sales tax is paid by the purchaser and collected by the seller. Use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to sales tax. Use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Washington law does not provide a general exemption from the retail sales tax for sales by nonprofit organizations. Most sales tax exemptions are for specific items, such as food for home consumption and prescription drugs. Nonprofit organizations generally collect tax from purchasers when selling goods and services subject to sales tax. A few exemptions exist for nonprofit organizations, such as exemptions for goods sold at a nonprofit organization's annual or semi-annual bazaar or rummage sale as long as total sales are \$20,000 or less and for annual fund-raising auction sales by public benefit nonprofit organizations.

Business and Occupation Taxes. Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state. Nonprofit organizations pay B&O tax unless specifically exempted by statute. Exemption from federal income tax does not automatically provide

exemption from state taxes.

Fund-raising activities that are exempted from the sales and B&O taxes may still be subject to limitations on the use of tax-exempt property.

Summary of Bill: More general B&O and sales tax exemptions are created for certain nonprofit organizations. Eligible nonprofit organizations are exempted from paying B&O taxes on income earned from fund-raising activities involving the direct solicitation of money or other property or the anticipated exchange of goods or services for money for the purpose of furthering the goals of the nonprofit organization.

Similarly, goods and services sold during a fund-raising activity are also exempt from sales tax, if sold by an eligible nonprofit organization for the purpose of furthering the goals of the nonprofit organization. Although sales tax exemptions are created, a purchaser of these goods and services may still owe use tax. Also, a nonprofit organization's sale of goods and services at a regular place of business is not exempt from sales tax. A regular place of business means places such as a bookstore, thrift shop, or restaurant.

Eligible nonprofit organizations include those that are exempt under certain sections of the federal internal revenue code as follows:

501 (c) (3) Organizations including corporations and any community chest, fund, or foundation operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, provided that none of these organizations engage in political activities;

501 (c) (4) Organizations including civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes; and

501 (c) (10) Organizations including domestic fraternal societies, orders, or associations operating under the lodge system.

Any nonprofit organization that would qualify for exemption under these sections of the federal internal revenue code, if the nonprofit organization were to formally incorporate, is

also eligible for the tax exemptions.

Additionally, any nonprofit organization whose members, stockholders, officers, directors, or trustees receive no payment from the organization except reasonable amounts for services rendered and whose activities do not include a substantial amount of political activity also qualifies for these tax exemptions.

Specific B&O exemptions dealing with nonprofit organizations' income earned from auctions, bazaars, and rummage sales are repealed. Similarly, sales tax exemptions for goods and services sold by nonprofit organizations at auctions, bazaars, and rummage sales are repealed. These specific exemptions are replaced by the more general tax exemptions created for nonprofit organizations' fund-raising activities.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.