

SSB 5355

Bill Analysis

February 19, 1998

Brief Description: Exempting certain property donated to charitable organizations.

Bill Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Benton, Brown, Swecker, Finkbeiner, Patterson, Rossi and Winsley).

Staff: Linda Brooks, 786-7153.

Background: The sales tax is imposed on retail sales of most items of tangible personal property and some services. Use tax is imposed on the use of an item in this state, when the acquisition of the item or service has not been subject to sales tax. Services subject to sales tax include the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property. The combined state and local sales and use tax rate is between 7 and 8.6 percent, depending on location.

Donors:

Sales and use tax do not apply to tangible personal property sold at wholesale. The purchase of tangible personal property for resale in the buyer's regular course of business without intervening use is a sale at wholesale. In the event that a buyer donates an item instead of reselling it, however, then the buyer owes use tax on the donated item.

A person's purchase of tangible personal property for incorporation as an ingredient or component of real or personal property without intervening use when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating real or personal property is also a sale for resale, as long as the person resells the completed work to a consumer. On the other hand, if a person purchases tangible personal property and uses it to install, repair, clean, alter, imprint, improve, construct or decorate property for a nonprofit charitable organization *without* charge, then the person owes use tax on the property used.

Donees:

Generally, a recipient of a donated item owes use tax, if the donor has not previously paid sales or use tax on the item. Nonetheless, nonprofit charitable organizations and state or

local government entities are exempt from paying use tax on donated items. Subsequent transfers of these donated items from the charity or governmental entity are still subject to tax, however, so that a person who receives a donated item from a charity or governmental entity owes use tax on the item.

Summary of Bill: Donors: Any person who donates tangible personal property without intervening use to a nonprofit charitable organization or state or local governmental entity is exempt from paying use tax on the donated property. Similarly, if a person incorporates tangible personal property without intervening use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating real or personal property *without* charge, then the person is exempt from paying use tax on the property used.

Donees: A person who subsequently receives an item of tangible personal property donated to a nonprofit charitable organization or a state or local governmental entity is exempt from paying use tax on the item, as long as use of the item is in furtherance of the purpose for which the property was originally donated.

Appropriation: None.

Fiscal Note: Available.

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