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HOUSE BILL 2850

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State of Washington

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2000 Regular Session

By Representatives Reardon, Schoesler, Scott, D. Schmidt, Tokuda, Skinner, Thomas, Clements, Dunshee, McIntire and Pennington

Read first time 01/21/2000. Referred to Committee on Finance.

1 AN ACT Relating to excise tax treatment of linen and uniform supply  
2 services; reenacting and amending RCW 82.04.050; adding a new section  
3 to chapter 82.04 RCW; creating a new section; and providing an  
4 effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that some linen and  
7 uniform supply services have been incorrectly characterized for retail  
8 sales tax purposes. These businesses have been characterized as  
9 providing cleaning services when in fact they rent clean items to  
10 customers. As a result of this incorrect characterization, some  
11 companies that perform laundry activities outside the state of  
12 Washington have not been required to collect retail sales taxes upon  
13 linen and uniform supply services provided to Washington customers.  
14 This error in tax treatment provides an incentive for businesses to  
15 locate their laundry functions out of state. In-state businesses  
16 cannot compete if out-of-state competitors are not required to collect  
17 sales tax.

18 The purpose of this act is to clarify the excise tax treatment of  
19 linen and uniform supply services. Businesses that supply clean items

1 such as clean linen, uniforms, and towels are renting or leasing  
2 tangible personal property and should be taxed accordingly.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW  
4 to read as follows:

5 "Linen and uniform supply service" means the activity of providing  
6 customers with a supply of clean linen, towels, uniforms, gowns,  
7 protective apparel, clean room apparel, mats, rugs, and similar items,  
8 whether ownership of the item is in the person operating the linen and  
9 uniform supply service or in the customer. The term includes supply  
10 services operating their own cleaning establishments as well as those  
11 contracting with other laundry or dry cleaning businesses.

12 **Sec. 3.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998 c  
13 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as  
14 follows:

15 (1) "Sale at retail" or "retail sale" means every sale of tangible  
16 personal property (including articles produced, fabricated, or  
17 imprinted) to all persons irrespective of the nature of their business  
18 and including, among others, without limiting the scope hereof, persons  
19 who install, repair, clean, alter, improve, construct, or decorate real  
20 or personal property of or for consumers other than a sale to a person  
21 who presents a resale certificate under RCW 82.04.470 and who:

22 (a) Purchases for the purpose of resale as tangible personal  
23 property in the regular course of business without intervening use by  
24 such person; or

25 (b) Installs, repairs, cleans, alters, imprints, improves,  
26 constructs, or decorates real or personal property of or for consumers,  
27 if such tangible personal property becomes an ingredient or component  
28 of such real or personal property without intervening use by such  
29 person; or

30 (c) Purchases for the purpose of consuming the property purchased  
31 in producing for sale a new article of tangible personal property or  
32 substance, of which such property becomes an ingredient or component or  
33 is a chemical used in processing, when the primary purpose of such  
34 chemical is to create a chemical reaction directly through contact with  
35 an ingredient of a new article being produced for sale; or

36 (d) Purchases for the purpose of consuming the property purchased  
37 in producing ferrosilicon which is subsequently used in producing

1 magnesium for sale, if the primary purpose of such property is to  
2 create a chemical reaction directly through contact with an ingredient  
3 of ferrosilicon; or

4 (e) Purchases for the purpose of providing the property to  
5 consumers as part of competitive telephone service, as defined in RCW  
6 82.04.065. The term shall include every sale of tangible personal  
7 property which is used or consumed or to be used or consumed in the  
8 performance of any activity classified as a "sale at retail" or "retail  
9 sale" even though such property is resold or utilized as provided in  
10 (a), (b), (c), (d), or (e) of this subsection following such use. The  
11 term also means every sale of tangible personal property to persons  
12 engaged in any business which is taxable under RCW 82.04.280 (2) and  
13 (7) and 82.04.290.

14 (2) The term "sale at retail" or "retail sale" shall include the  
15 sale of or charge made for tangible personal property consumed and/or  
16 for labor and services rendered in respect to the following:

17 (a) The installing, repairing, cleaning, altering, imprinting, or  
18 improving of tangible personal property of or for consumers, including  
19 charges made for the mere use of facilities in respect thereto, but  
20 excluding charges made for the use of coin-operated laundry facilities  
21 when such facilities are situated in an apartment house, rooming house,  
22 or mobile home park for the exclusive use of the tenants thereof, and  
23 also excluding sales of laundry service to nonprofit health care  
24 facilities, and excluding services rendered in respect to live animals,  
25 birds and insects;

26 (b) The constructing, repairing, decorating, or improving of new or  
27 existing buildings or other structures under, upon, or above real  
28 property of or for consumers, including the installing or attaching of  
29 any article of tangible personal property therein or thereto, whether  
30 or not such personal property becomes a part of the realty by virtue of  
31 installation, and shall also include the sale of services or charges  
32 made for the clearing of land and the moving of earth excepting the  
33 mere leveling of land used in commercial farming or agriculture;

34 (c) The charge for labor and services rendered in respect to  
35 constructing, repairing, or improving any structure upon, above, or  
36 under any real property owned by an owner who conveys the property by  
37 title, possession, or any other means to the person performing such  
38 construction, repair, or improvement for the purpose of performing such  
39 construction, repair, or improvement and the property is then

1 reconveyed by title, possession, or any other means to the original  
2 owner;

3 (d) The sale of or charge made for labor and services rendered in  
4 respect to the cleaning, fumigating, razing or moving of existing  
5 buildings or structures, but shall not include the charge made for  
6 janitorial services; and for purposes of this section the term  
7 "janitorial services" shall mean those cleaning and caretaking services  
8 ordinarily performed by commercial janitor service businesses  
9 including, but not limited to, wall and window washing, floor cleaning  
10 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
11 The term "janitorial services" does not include painting, papering,  
12 repairing, furnace or septic tank cleaning, snow removal or  
13 sandblasting;

14 (e) The sale of or charge made for labor and services rendered in  
15 respect to automobile towing and similar automotive transportation  
16 services, but not in respect to those required to report and pay taxes  
17 under chapter 82.16 RCW;

18 (f) The sale of and charge made for the furnishing of lodging and  
19 all other services by a hotel, rooming house, tourist court, motel,  
20 trailer camp, and the granting of any similar license to use real  
21 property, as distinguished from the renting or leasing of real  
22 property, and it shall be presumed that the occupancy of real property  
23 for a continuous period of one month or more constitutes a rental or  
24 lease of real property and not a mere license to use or enjoy the same;

25 (g) The sale of or charge made for tangible personal property,  
26 labor and services to persons taxable under (a), (b), (c), (d), (e),  
27 and (f) of this subsection when such sales or charges are for property,  
28 labor and services which are used or consumed in whole or in part by  
29 such persons in the performance of any activity defined as a "sale at  
30 retail" or "retail sale" even though such property, labor and services  
31 may be resold after such use or consumption. Nothing contained in this  
32 subsection shall be construed to modify subsection (1) of this section  
33 and nothing contained in subsection (1) of this section shall be  
34 construed to modify this subsection.

35 (3) The term "sale at retail" or "retail sale" shall include the  
36 sale of or charge made for personal, business, or professional services  
37 including amounts designated as interest, rents, fees, admission, and  
38 other service emoluments however designated, received by persons  
39 engaging in the following business activities:

1 (a) Amusement and recreation services including but not limited to  
2 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips  
3 for sightseeing purposes, and others, when provided to consumers;

4 (b) Abstract, title insurance, and escrow services;

5 (c) Credit bureau services;

6 (d) Automobile parking and storage garage services;

7 (e) Landscape maintenance and horticultural services but excluding  
8 (i) horticultural services provided to farmers and (ii) pruning,  
9 trimming, repairing, removing, and clearing of trees and brush near  
10 electric transmission or distribution lines or equipment, if performed  
11 by or at the direction of an electric utility;

12 (f) Service charges associated with tickets to professional  
13 sporting events; and

14 (g) The following personal services: Physical fitness services,  
15 tanning salon services, tattoo parlor services, steam bath services,  
16 turkish bath services, escort services, and dating services.

17 (4) The term shall also include the renting or leasing of tangible  
18 personal property to consumers and the rental of equipment with an  
19 operator. Linen and uniform supply services are renting or leasing  
20 tangible personal property for the purposes of this section.

21 (5) The term shall also include the providing of telephone service,  
22 as defined in RCW 82.04.065, to consumers.

23 (6) The term shall also include the sale of canned software other  
24 than a sale to a person who presents a resale certificate under RCW  
25 82.04.470, regardless of the method of delivery to the end user, but  
26 shall not include custom software or the customization of canned  
27 software.

28 (7) The term shall not include the sale of or charge made for labor  
29 and services rendered in respect to the building, repairing, or  
30 improving of any street, place, road, highway, easement, right of way,  
31 mass public transportation terminal or parking facility, bridge,  
32 tunnel, or trestle which is owned by a municipal corporation or  
33 political subdivision of the state or by the United States and which is  
34 used or to be used primarily for foot or vehicular traffic including  
35 mass transportation vehicles of any kind.

36 (8) The term shall also not include sales of chemical sprays or  
37 washes to persons for the purpose of postharvest treatment of fruit for  
38 the prevention of scald, fungus, mold, or decay, nor shall it include  
39 sales of feed, seed, seedlings, fertilizer, agents for enhanced

1 pollination including insects such as bees, and spray materials to:  
2 (a) Persons who participate in the federal conservation reserve  
3 program, the environmental quality incentives program, the wetlands  
4 reserve program, and the wildlife habitat incentives program, or their  
5 successors administered by the United States department of agriculture;  
6 (b) farmers for the purpose of producing for sale any agricultural  
7 product; and (c) farmers acting under cooperative habitat development  
8 or access contracts with an organization exempt from federal income tax  
9 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of  
10 fish and wildlife to produce or improve wildlife habitat on land that  
11 the farmer owns or leases.

12 (9) The term shall not include the sale of or charge made for labor  
13 and services rendered in respect to the constructing, repairing,  
14 decorating, or improving of new or existing buildings or other  
15 structures under, upon, or above real property of or for the United  
16 States, any instrumentality thereof, or a county or city housing  
17 authority created pursuant to chapter 35.82 RCW, including the  
18 installing, or attaching of any article of tangible personal property  
19 therein or thereto, whether or not such personal property becomes a  
20 part of the realty by virtue of installation. Nor shall the term  
21 include the sale of services or charges made for the clearing of land  
22 and the moving of earth of or for the United States, any  
23 instrumentality thereof, or a county or city housing authority. Nor  
24 shall the term include the sale of services or charges made for  
25 cleaning up for the United States, or its instrumentalities,  
26 radioactive waste and other byproducts of weapons production and  
27 nuclear research and development.

28 (10) Until July 1, 2003, the term shall not include the sale of or  
29 charge made for labor and services rendered for environmental remedial  
30 action as defined in RCW 82.04.2635(2).

31 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2000.

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