
Finance Committee

HB 2655

Brief Description: Concerning the excise taxation of crowdfunding donations.

Sponsors: Representatives Stokesbary, Vick, MacEwen, Zeiger and Magendanz.

Brief Summary of Bill

- Exempts qualifying crowdfunding donations from business and occupation and sales and use tax receipts.
- Defines a "qualifying donation" as any donation made through a crowdfunding website, except for those in which the value of a reward given in exchange for a donation exceeds 80 percent of the donation, and the donee (fundraiser) is in the business of producing or selling the reward.

Hearing Date: 1/29/16

Staff: Sarah McLaughlin Emmans (786-7288).

Background:

Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any

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deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted. Retailing activities are subject to a rate of 0.471 percent, and service & other activities are subject to a rate of 1.5 percent.

Crowdfunding.

Crowdfunding is defined by the World Bank as "the practice of raising funds from multiple individuals via the web." There are four general categories of crowdfunding:

1. Equity-based: Investors receive a stake in the company.
2. Lending-based: Investors are repaid for their investment over a period of time.
3. Donation-based: Contributions are for a charitable cause. A reward may sometimes be given in exchange for the contribution.
4. Reward-based: Investors receive a tangible item or service in return for their funds.

In general, the fundraiser -- an individual or a business - sets a financial goal for the project, and no money is collected unless the goal is met. Most crowdfunding occurs via a host, or an online platform that may charge fees from a fundraiser, sometimes in the form of a percentage of funding raised.

Taxation of Crowdfunding in Washington State.

While there is no specific statute regarding the taxation of crowdfunding, the Department of Revenue has published guidance that outlines its interpretation of taxation as it relates to crowdfunding activities. Fundraisers must report all funds raised in the reporting period in which the financial goal is completed. Fundraisers must register with the Department of Revenue if they are required to collect sales tax for a project, or if their annual gross income exceeds \$12,000. Fundraisers must collect sales tax on all donations if a retail service (e.g., meal), digital product (e.g., software), or tangible personal property (e.g., book) is provided as a reward in exchange for a donation. For B&O tax purposes, fundraisers must report retailing receipts if taxable rewards are given in exchange for donations, while receipts for non-retail services are considered a service and other classification. In a given fundraising transaction, any funding received that exceeds the amount solicited on the crowdfunding platform is considered a donation and therefore not subject to tax.

Summary of Bill:

All qualifying donations made through a crowdfunding website are exempt from business and occupation tax and sales tax. Rewards received in exchange for a qualifying donation are exempt from use tax.

"Qualifying donation" is defined as any donation made through a crowdfunding website, including those made in exchange for a reward of a retail service, digital product, or tangible personal property, as long as two conditions are met:

1. The value of the reward does not exceed 80 percent of the value of the contribution; and
2. The reward is not provided or sold in the donee's (fundraiser's) regular course of business.

The act is exempted from a tax preference performance review and from the automatic ten-year expiration.

The act applies to receipts, sales, and uses made on or after July 1, 2016.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 2016.