
Finance Committee

HB 2839

Brief Description: Providing a sales and use tax exemption for certain new building construction to be used by maintenance repair operators for airplane repair and maintenance.

Sponsors: Representatives Springer and Nealey.

Brief Summary of Bill

- Exempts from sales tax all charges for construction of a new building that will be owned or leased by an aircraft maintenance repair operator.
- Defines an eligible maintenance repair operator as one that has received a certain certification from the Federal Aviation Administration (FAA)

Hearing Date: 1/29/16

Staff: Sarah McLaughlin Emmans (786-7288).

Background:

Aircraft Repair Station.

The National Air Transportation Association defines the term "repair station" as a maintenance facility that has a certificate issued by the Federal Aviation Administration (FAA) under Title 14 of the Code of Federal Regulations (14 CFR) Part 145 and is engaged in the maintenance, preventive maintenance, inspection, and alteration of aircraft and aircraft products. Maintenance facilities must apply to the FAA for a repair station certificate; at the end of the application process, the FAA may issue a certificate and a rating that describes the tasks that the repair station is capable of performing. According to the FAA, there are more than 100 repair stations in Washington State.

Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services (including construction). 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

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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.

Taxation of Construction Activities.

Prime contractors must collect retail sales tax from the purchaser of the construction project on the gross contract price (without deduction of costs incurred). Billing invoices must separately state the sales tax. If the contract requires retainage, sales tax must be computed before deducting such amounts. Retail construction services are sourced to the location where the construction takes place. A contractor is considered the consumer of items purchased for use in the construction process and not used as component parts of the finished structure, and therefore, retail sales tax must be paid to the vendors of such items. The purchase of materials by custom contractors that will become part of the completed project are purchases for resale (wholesale). Such purchases are not subject to retail sales tax. Reseller permits allow businesses to purchase items or services for resale without paying retail sales tax. Use tax is due if sales tax has not been paid on items the contractor uses as a consumer. Use tax is generally due (if sales tax has not been paid) on the following: equipment, tools, supplies, and rentals of equipment, even if the cost for these items is passed along to the purchaser of the construction project.

Exemption for Machinery and Equipment.

A retail sales and use tax exemption applies to new or replacement machinery and equipment (M&E) used in a manufacturing, testing, or research and development operation by a manufacturer or processor for hire. The exemption also applies to services, such as installation or repair services, rendered with respect to the M&E. The exemption applies to industrial fixtures and devices as well as pollution control equipment that is used in the manufacturing operation. The exemption does not apply to short-lived tools, hand tools, and consumable supplies.

Summary of Bill:

Payment by an eligible maintenance repair operator for the construction of a new building is exempt from sales tax. An eligible maintenance repair operator is a person classified by the FAA as a Part 145 certified repair station. The exemption also applies to construction of a new building paid for by a port district, political subdivision, or municipal corporation, if the building will be leased to an eligible maintenance repair operator.

The exemption also applies to any charges made for the installation in the building of any machinery and equipment that is not otherwise exempt from sales tax.

Construction of a new building that will be used by an eligible maintenance repair operator is exempt from use tax.

Sellers making tax-exempt sales must obtain an exemption certificate from the purchaser. Any person claiming the exemption is required to file an annual report with the Department of Revenue.

The tax preference is categorized as one intended to create jobs, and the tax preference performance statement requires the Joint Legislative Audit and Review Committee (JLARC) to evaluate whether or not the preferences have led to increased employment in the FAA repair station sector.

The act expires on January 1, 2027.

Appropriation: None.

Fiscal Note: Available.

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