5997-S.E AMH ORCU OBRT 179

**ESSB 5997** - H AMD **869**

By Representative Orcutt

**NOT ADOPTED 04/27/2019**

Beginning on page 1, line 10, strike all of section 101 and insert the following:

"**Sec.**  RCW 82.08.0273 and 2014 c 140 s 17 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to nonresidents of this state of tangible personal property, digital goods, and digital codes((~~, when~~)). The exemption only applies if:

(a) The property is for use outside this state;

(b) The purchaser is a bona fide resident of a province or territory of Canada or a state, territory, or possession of the United States, other than the state of Washington; and

(i) Such state, possession, territory, or province does not impose, or have imposed on its behalf, a generally applicable retail sales tax, use tax, value added tax, gross receipts tax on retailing activities, or similar generally applicable tax, of three percent or more; or

(ii) If imposing a tax described in (b)(i) of this subsection, provides an exemption for sales to Washington residents by reason of their residence; and

(c) The purchaser agrees, when requested, to grant the department of revenue access to such records and other forms of verification at his or her place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2) Notwithstanding anything to the contrary in this chapter, if parts or other tangible personal property are installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a separate charge for the tangible personal property, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to a nonresident purchaser for the tangible personal property but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the tangible personal property or, if no publicly stated retail price is available, the seller's cost for the tangible personal property. However, the exemption provided by this section does not apply if tangible personal property is installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a single nonitemized charge for providing the tangible personal property and service. All of the requirements in subsections (1) and (3) through ((~~(6)~~)) (7) of this section apply to this subsection.

(3)(a) Any person claiming exemption from retail sales tax under the provisions of this section must display proof of his or her current nonresident status as provided in this section.

(b) Acceptable proof of a nonresident person's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (3)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(c) In lieu of furnishing proof of a person's nonresident status under (b) of this subsection (3), a person claiming exemption from retail sales tax under the provisions of this section may provide ((~~the seller with~~)) an exemption certificate in compliance with subsection ((~~(4)(b)~~)) (5)(c) of this section.

(4)(a) For purchases made in any of the four largest counties west of the Cascades that do not share a border with a state that does not impose a retail sales tax, any person claiming exemption from retail sales tax under the provisions of this section must pay the state and local sales tax to the seller at the time of purchase and then request a remittance from the department in accordance with this subsection and subsection (5) of this section. A request for remittance must include proof of the person's status as a nonresident at the time of the purchase for which the remittance was requested. The request for the remittance must also include any additional information and documentation as required by the department, which may include a description of the item purchases for which a remittance is requested, the sales price of the item, the amount of sales tax paid on the item, the date of purchase, the name of the seller and the physical address where the sale took place, and copies of sales receipts showing the qualified purchase.

(b)(i) Beginning January 1, 2020, through December 31, 2020, a person may request a remittance from the department for state sales taxes paid by the person on qualified retail purchases made in Washington between July 1, 2019, and December 31, 2019.

(ii) Beginning January 1, 2021, a person may request a remittance from the department during any calendar year for state sales taxes paid by the person on qualified retail purchases made in Washington during the immediately preceding calendar year only. No application may be made with respect to purchases made before the immediately preceding calendar year.

(c) The remittance request, including proof of nonresident status and any other documentation and information required by the department, must be provided in a form and manner as prescribed by the department. Only one remittance request may be made by a person per calendar year.

(d) The total amount of a remittance request must be at least twenty-five dollars. The department must deny any request for a remittance that is less than twenty-five dollars.

(e) The department will examine the applicant's proof of nonresident status and any other documentation and information as required in the application to determine whether the applicant is entitled to a remittance under this section.

(5)(a) For purchases in any county except the four largest counties west of the Cascades that do not share a border with a state that does not impose a retail sales tax, a person claiming the exemption from retail sales under the provisions of this section must provide proof of his or her nonresident status as provided in this section at the time of purchase.

(b) Nothing in this section requires the vendor to make tax exempt retail sales to nonresidents. A vendor may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the vendor chooses to make a sale to a nonresident without collecting the sales tax, the vendor must examine the purchaser's proof of nonresidence, determine whether the proof is acceptable under subsection (3)(b) of this section, and maintain records for each nontaxable sale which must show the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

((~~(b)~~)) (c) In lieu of using the method provided in ((~~(a)~~)) (b) of this subsection to document an exempt sale to a nonresident, a seller may accept from the purchaser a properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board or any other exemption certificate as may be authorized by the department and properly completed by the purchaser. A nonresident purchaser who uses an exemption certificate authorized in this subsection ((~~(4)(b)~~)) (5)(c) must include the purchaser's driver's license number or other state-issued identification number and the state of issuance.

((~~(c)~~)) (d) In lieu of using the methods provided in ((~~(a) and~~)) (b) and (c) of this subsection to document an exempt sale to a nonresident, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

((~~(5)~~)) (6)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a vendor, in order to purchase goods without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

(b) Any person making tax exempt purchases under this section by displaying proof of identification not his or her own, or counterfeit identification, with intent to violate the provisions of this section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

((~~(6)~~)) (7)(a) Any vendor who makes sales without collecting the tax and who fails to maintain records of sales to nonresidents as provided in this section is personally liable for the amount of tax due.

(b) Any vendor who makes sales without collecting the retail sales tax under this section and who has actual knowledge that the purchaser's proof of identification establishing out-of-state residency is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the purchaser and the vendor are liable for any penalties and interest assessable under chapter 82.32 RCW.

((~~(7)~~)) (8) The exemption in this section does not apply to sales of marijuana, useable marijuana, or marijuana-infused products."

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|  | EFFECT:   Limits the nonresident sales tax remittance program to Snohomish, King, Pierce and Thurston counties. Maintains current nonresident sales tax program for remainder of counties. |

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