
Finance Committee

HB 1411

Brief Description: Providing tax exemptions for amenities purchased by lodging businesses for use by guests.

Sponsors: Representatives Santos, Orcutt, Upthegrove, Roach, Ericks, Condotta, Pettigrew, Hasegawa, Kristiansen, Williams, Kessler and Ormsby.

Brief Summary of Bill

- Exempts guest amenities purchased by a lodging business from sales and use taxation.

Hearing Date: 1/31/07

Staff: Jeff Mitchell (786-7139).

Background:

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. Use taxes apply to the value of most tangible personal property and some services when used in this state, if retail sales taxes were not collected when the property or services were acquired by the user. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 2.4 percent, depending on the location. The average local tax rate is 2.0, for an average combined state and local tax rate of 8.5 percent.

Service activities often require the use of tangible personal property. If a business uses property for the performance of a service activity, the business pays sales tax at the time of purchase. An example of this would be the purchase of diagnostic testing equipment by an automotive business. If, on the other hand, the business purchases the tangible personal property for resale, the business is exempt from sales tax at the time of purchase. However, the business would then charge the customer sales tax for the entire sale of the service, including any tangible property received by the customer. An example of this would be the purchase of engine components by an automotive business if the components are incorporated into customer vehicles.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

One specific type of service that is subject to sales tax is the provision of lodging by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. Sales tax applies to the provision of lodging only if the period of occupancy is less than a month. Lodging businesses typically purchase guest amenities for the use and enjoyment of guests. Shampoo, notepads, soap, and magazines are a couple examples of these amenities.

In 2004, a Washington state appellate court (*Mayflower Park Hotel v. State*, 123 Wn. App. 628) ruled that amenities provided by a lodging business are not purchased for resale, but instead used or consumed in the course of furnishing lodging to guests. Therefore, a hotel must pay sales tax upon the purchase of the amenities.

Summary of Bill:

The sale of amenities to a lodging business for the consumption and use of guests are exempted from sales and use tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.