

SHB 2038 - H AMD 471

By Representative Wylie

ADOPTED 04/24/2013

1 Beginning on page 22, line 25, strike all of section 401 and insert
2 the following:

3 "Sec. 401. RCW 82.08.0273 and 2011 c 7 s 1 are each amended to
4 read as follows:

5 (1) Subject to the conditions and limitations in this section, an
6 exemption from the tax levied by RCW 82.08.020 ((does not apply to)) in
7 the form of a remittance from the department is provided for sales to
8 nonresidents of this state of tangible personal property, digital
9 goods, and digital codes(~~(, when))~~). The exemption only applies if:

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

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

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

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

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

25 (2) Notwithstanding anything to the contrary in this chapter, if
26 parts or other tangible personal property are installed by the seller
27 during the course of repairing, cleaning, altering, or improving motor
28 vehicles, trailers, or campers and the seller makes a separate charge
29 for the tangible personal property, the tax levied by RCW 82.08.020
30 does not apply to the separately stated charge to a nonresident

1 purchaser for the tangible personal property but only if the separately
2 stated charge does not exceed either the seller's current publicly
3 stated retail price for the tangible personal property or, if no
4 publicly stated retail price is available, the seller's cost for the
5 tangible personal property. However, the exemption provided by this
6 section does not apply if tangible personal property is installed by
7 the seller during the course of repairing, cleaning, altering, or
8 improving motor vehicles, trailers, or campers and the seller makes a
9 single nonitemized charge for providing the tangible personal property
10 and service. All of the ~~((requirements))~~ provisions in subsections (1)
11 and (3) through ~~((+6))~~ (7) of this section apply to this subsection.

12 (3)(a) Any person claiming exemption from retail sales tax under
13 the provisions of this section must ~~((display proof of his or her
14 current nonresident status as provided in this section))~~ pay the state
15 and local sales tax to the seller at the time of purchase and then
16 request a remittance from the department in accordance with this
17 subsection and subsection (4) of this section. A request for
18 remittance must include proof of the person's status as a nonresident
19 at the time of the purchase for which a remittance is requested. The
20 request for a remittance must also include any additional information
21 and documentation as required by the department, which may include a
22 description of the item purchased for which a remittance is requested,
23 the sales price of the item, the amount of state and local sales tax
24 paid on the item, the date of the purchase, the name of the seller and
25 the physical address where the sale took place, and copies of sales
26 receipts showing the qualified purchases.

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

35 (c) In lieu of furnishing proof of a person's nonresident status
36 under (b) of this subsection (3), a person claiming exemption from
37 retail sales tax under the provisions of this section may provide the

1 seller with an exemption certificate in compliance with subsection
2 (4)(b) of this section.

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

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

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

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

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

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

1 ~~(b) Any vendor who makes sales without collecting the retail sales~~
2 ~~tax under this section and who has actual knowledge that the~~
3 ~~purchaser's proof of identification establishing out-of-state residency~~
4 ~~is fraudulent is guilty of a misdemeanor and, in addition, is liable~~
5 ~~for the tax and subject to a penalty equal to the greater of one~~
6 ~~thousand dollars or the tax due on such sales. In addition, both the~~
7 ~~purchaser and the vendor are liable for any penalties and interest~~
8 ~~assessable under chapter 82.32 RCW.))~~ (i) Beginning January 1, 2014,
9 through December 31, 2014, a person may request a remittance from the
10 department for state and local sales taxes paid by the person on
11 qualified retail purchases made in Washington between July 1, 2013, and
12 December 31, 2013.

13 (ii) Beginning January 1, 2014, a person may request a remittance
14 from the department during any calendar year for state and local sales
15 taxes paid by the person on qualified retail purchases made in
16 Washington during the immediately preceding calendar year only. No
17 application may be made with respect to purchases made before the
18 immediately preceding calendar year.

19 (b) The remittance request, including proof of nonresident status
20 and any other documentation and information required by the department,
21 must be made using an electronic application process as prescribed by
22 the department. Only one remittance request may be made by a person
23 per calendar year.

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

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

31 (5)(a) Any person making fraudulent statements to the department,
32 which includes the offer of fraudulent or fraudulently procured
33 identification or fraudulent sales receipts, in order to receive a
34 remittance of retail sales tax is guilty of perjury under chapter 9A.72
35 RCW.

36 (b) Any person requesting a remittance of sales tax from the
37 department by providing proof of identification or sales receipts not
38 the person's own, or counterfeit identification or sales receipts, with

1 intent to violate the provisions of this section, is guilty of a
2 misdemeanor and, in addition, is liable for the tax and subject to a
3 penalty equal to the greater of one hundred dollars or the tax due on
4 such purchases.

5 (6) The exemption provided by this section is for both state and
6 local sales taxes. For purposes of this section, "local sales tax"
7 means a sales tax imposed by a local government under the authority of
8 chapter 82.14 RCW, RCW 81.104.170, or other provision of law, and which
9 is imposed on the same taxable event as the state sales tax imposed in
10 this chapter.

11 (7) A nonresident who receives a refund of sales tax from the
12 seller for any reason with respect to a purchase made in this state is
13 not entitled to a remittance for the tax paid on the purchase. A
14 person who receives both a remittance under this section and a refund
15 from the seller with respect to the same purchase must immediately
16 repay the remittance to the department. Interest as provided in
17 chapter 82.32 RCW applies to amounts due under this section from the
18 date that the department made the remittance until the amount due under
19 this subsection is paid to the department. A person who receives a
20 remittance with respect to a purchase for which the person had, at the
21 time the person submitted the application for a remittance, already
22 received a refund of sales tax from the seller is also liable for the
23 evasion penalty in RCW 82.32.090(7) and is ineligible to receive any
24 further remittances from the department under this section."

25 Correct the title.

EFFECT: Converts the nonresident sales tax exemption into a refund process for state and local sales taxes. Requires a minimum refund request of \$25. (Therefore, nonresidents will pay sales tax initially, but may seek a refund.)

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