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## Finance Committee

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### HB 1997

**Brief Description:** Concerning the taxation of home service contracts.

**Sponsors:** Representatives Hunter, Carlyle and Alexander.

Brief Summary of Bill
<ul style="list-style-type: none"><li>• Imposes retail sales tax on the initial charge for home service contracts.</li><li>• Excludes subsequent fees or charges for services rendered under a home service contract from retail sales tax.</li></ul>



**Hearing Date:** 3/22/13

**Staff:** Dominique Meyers (786-7150).

**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 3.0 percent, depending on the location.

Extended Warranties.

The sale of an extended warranty that covers the repairs of tangible personal property is defined as a retail sale. When an extended warranty is sold to a consumer by the warrantor, retail sales tax must be collected by the seller. In addition, the sale is reported under the retailing classification of the business and occupation (B&O) tax. Extended warranties sold in Washington to consumers are subject to sales tax even if the sale of the tangible personal property may be exempt. For example, equipment used directly in a manufacturing operation is

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exempt from sales tax. However, an extended warranty associated with the equipment is subject to sales tax. When a repair is made by the warrantor, retail sales tax must be collected for any additional charge to the consumer and the additional charge is reported under the retailing classification of the B&O tax.

#### Home Service Contract.

The sale of an extended warranty that covers the repair of real property (home service contract) is not subject to sales tax. Instead, these warranty sales are subject to the service and other activities classification of the B&O tax. Occasionally, home service contracts are sold to cover certain specified items for an additional charge. If the additional charge is to cover tangible personal property, then retail sales tax will apply to the additional charge. If the home service contract requires the owner to pay part of the cost of the repair, that charge is subject to retail sales tax. When a person other than the warrantor performs the repair, the person making the repair is making a retail sale and must collect retail sales tax on the charge to the warrantor.

If a covered repair is performed by the warrantor for no additional charge, the warrantor is the consumer of any parts and materials used in the repair. The warrantor must pay retail sales tax to the supplier, or use tax on the value of the parts and materials if the supplier did not charge sales tax.

#### **Summary of Bill:**

Home service contracts are included in the definition of a retail sale; therefore, the warrantor is required to collect retail sales tax from the consumer for the initial charge of the home service contract. Any subsequent fee or charge to the consumer to diagnose a problem or provide a service covered by the home service contract is not included in the definition of a retail sale. Instead, these additional fees or charges are wholesale sales and would be subject to the wholesale B&O tax.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on August 1, 2013.