
ENGROSSED HOUSE BILL 2036

State of Washington

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By Representatives Carlyle, Hunter, Ormsby, Tharinger, Reykdal, and Pollet

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1 AN ACT Relating to investing in the education legacy trust account
2 for K-12 basic education and higher education by narrowing or
3 eliminating tax preferences; amending RCW 82.08.0273, 82.14.050, and
4 82.14.060; adding a new section to chapter 82.32 RCW; adding a new
5 section to chapter 43.135 RCW; adding a new section to chapter 39.42
6 RCW; providing an effective date; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 82.08.0273 and 2011 c 7 s 1 are each amended to read
9 as follows:

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

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

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

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

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

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

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

29 (3)(a) Any person claiming exemption from retail sales tax under
30 the provisions of this section must ~~((display proof of his or her
31 current nonresident status as provided in this section))~~ pay the state
32 and local sales tax to the seller at the time of purchase and then
33 request a remittance from the department in accordance with this
34 subsection and subsection (4) of this section. A request for
35 remittance must include proof of the person's status as a nonresident
36 at the time of the purchase for which a remittance is requested. The
37 request for a remittance must also include any additional information
38 and documentation as required by the department, which may include a

1 description of the item purchased for which a remittance is requested,
2 the sales price of the item, the amount of state and local sales tax
3 paid on the item, the date of the purchase, the name of the seller and
4 the physical address where the sale took place, and copies of sales
5 receipts showing the qualified purchases.

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

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

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

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

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

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

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

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

18 ~~(b) Any vendor who makes sales without collecting the retail sales~~
19 ~~tax under this section and who has actual knowledge that the~~
20 ~~purchaser's proof of identification establishing out of state residency~~
21 ~~is fraudulent is guilty of a misdemeanor and, in addition, is liable~~
22 ~~for the tax and subject to a penalty equal to the greater of one~~
23 ~~thousand dollars or the tax due on such sales. In addition, both the~~
24 ~~purchaser and the vendor are liable for any penalties and interest~~
25 ~~assessable under chapter 82.32 RCW.)) (i) Beginning January 1, 2014,~~
26 ~~through December 31, 2014, a person may request a remittance from the~~
27 ~~department for state and local sales taxes paid by the person on~~
28 ~~qualified retail purchases made in Washington between August 1, 2013,~~
29 ~~and December 31, 2013.~~

30 ~~(ii) Beginning January 1, 2015, a person may request a remittance~~
31 ~~from the department during any calendar year for state and local sales~~
32 ~~taxes paid by the person on qualified retail purchases made in~~
33 ~~Washington during the immediately preceding calendar year only. No~~
34 ~~application may be made with respect to purchases made before the~~
35 ~~immediately preceding calendar year.~~

36 ~~(b) The remittance request, including proof of nonresident status~~
37 ~~and any other documentation and information required by the department,~~

1 must be provided in a form and manner as prescribed by the department.
2 Only one remittance request may be made by a person per calendar year.

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

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

10 (5)(a) Any person making fraudulent statements to the department,
11 which includes the offer of fraudulent or fraudulently procured
12 identification or fraudulent sales receipts, in order to receive a
13 remittance of retail sales tax is guilty of perjury under chapter 9A.72
14 RCW.

15 (b) Any person requesting a remittance of sales tax from the
16 department by providing proof of identification or sales receipts not
17 the person's own, or counterfeit identification or sales receipts, with
18 intent to violate the provisions of this section, is guilty of a
19 misdemeanor and, in addition, is liable for the tax and subject to a
20 penalty equal to the greater of one hundred dollars or the tax due on
21 such purchases.

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

28 (7) A nonresident who receives a refund of sales tax from the
29 seller for any reason with respect to a purchase made in this state is
30 not entitled to a remittance for the tax paid on the purchase. A
31 person who receives both a remittance under this section and a refund
32 from the seller with respect to the same purchase must immediately
33 repay the remittance to the department. Interest as provided in
34 chapter 82.32 RCW applies to amounts due under this section from the
35 date that the department made the remittance until the amount due under
36 this subsection is paid to the department. A person who receives a
37 remittance with respect to a purchase for which the person had, at the
38 time the person submitted the application for a remittance, already

1 received a refund of sales tax from the seller is also liable for the
2 evasion penalty in RCW 82.32.090(7) and is ineligible to receive any
3 further remittances from the department under this section.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32 RCW
5 to read as follows:

6 (1) By the last workday of the second and fourth calendar quarters,
7 the state treasurer must transfer the amount specified in subsection
8 (2) of this section from the general fund to the education legacy trust
9 account. The first transfer under this subsection (1) must occur by
10 December 31, 2013.

11 (2) By December 15th and by June 15th of each year, the department
12 must estimate the increase in state general fund revenues from the
13 changes made under section 1 of this act for the current and prior
14 calendar quarters and notify the state treasurer of the increase.

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.135 RCW
16 to read as follows:

17 RCW 43.135.034(4) does not apply to the transfers under section 2
18 of this act.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.42 RCW
20 to read as follows:

21 The purpose of narrowing the tax preference in section 1 of this
22 act is to support education-related expenditures from the education
23 legacy trust account. For this reason, general state revenues
24 transferred to the education legacy trust account under section 2 of
25 this act are excluded from the calculation of general state revenues
26 for purposes of Article VIII, section 1 of the state Constitution and
27 RCW 39.42.130 and 39.42.140.

28 **Sec. 5.** RCW 82.14.050 and 2012 1st sp.s. c 9 s 1 are each amended
29 to read as follows:

30 (1) The counties, cities, and transportation authorities under RCW
31 82.14.045, public facilities districts under chapters 36.100 and 35.57
32 RCW, public transportation benefit areas under RCW 82.14.440, regional
33 transportation investment districts, and transportation benefit
34 districts under chapter 36.73 RCW must contract, prior to the effective

1 date of a resolution or ordinance imposing a sales and use tax, the
2 administration and collection to the state department of revenue, which
3 must deduct a percentage amount, as provided by contract, not to exceed
4 two percent of the taxes collected for administration and collection
5 expenses incurred by the department. The remainder of any portion of
6 any tax authorized by this chapter that is collected by the department
7 of revenue must be deposited by the state department of revenue in the
8 local sales and use tax account hereby created in the state treasury.
9 Beginning January 1, 2013, the department of revenue must make deposits
10 in the local sales and use tax account on a monthly basis on the last
11 business day of the month in which distributions required in (a) of
12 this subsection are due. Moneys in the local sales and use tax account
13 may be withdrawn only for:

14 (a) Distribution to counties, cities, transportation authorities,
15 public facilities districts, public transportation benefit areas,
16 regional transportation investment districts, and transportation
17 benefit districts imposing a sales and use tax; and

18 (b) Making refunds of taxes imposed under the authority of this
19 chapter and RCW 81.104.170 and exempted under RCW 82.08.273, 82.08.962
20 (~~and~~), or 82.12.962.

21 (2) All administrative provisions in chapters 82.03, 82.08, 82.12,
22 and 82.32 RCW, as they now exist or may hereafter be amended, insofar
23 as they are applicable to state sales and use taxes, are applicable to
24 taxes imposed pursuant to this chapter.

25 (3) Counties, cities, transportation authorities, public facilities
26 districts, and regional transportation investment districts may not
27 conduct independent sales or use tax audits of sellers registered under
28 the streamlined sales tax agreement.

29 (4) Except as provided in RCW 43.08.190 and subsection (5) of this
30 section, all earnings of investments of balances in the local sales and
31 use tax account must be credited to the local sales and use tax account
32 and distributed to the counties, cities, transportation authorities,
33 public facilities districts, public transportation benefit areas,
34 regional transportation investment districts, and transportation
35 benefit districts monthly.

36 (5) Beginning January 1, 2013, the state treasurer must determine
37 the amount of earnings on investments that would have been credited to
38 the local sales and use tax account if the collections had been

1 deposited in the account over the prior month. When distributions are
2 made under subsection (1)(a) of this section, the state treasurer must
3 transfer this amount from the state general fund to the local sales and
4 use tax account and must distribute such sums to the counties, cities,
5 transportation authorities, public facilities districts, public
6 transportation benefit areas, regional transportation investment
7 districts, and transportation benefit districts.

8 **Sec. 6.** RCW 82.14.060 and 2009 c 469 s 108 are each amended to
9 read as follows:

10 (1)(a) Monthly, the state treasurer must distribute from the local
11 sales and use tax account to the counties, cities, transportation
12 authorities, public facilities districts, and transportation benefit
13 districts the amount of tax collected on behalf of each taxing
14 authority, less:

15 (i) The deduction provided for in RCW 82.14.050; and

16 (ii) The amount of any refunds of local sales and use taxes
17 exempted under RCW 82.08.273, 82.08.962 (~~and~~), or 82.12.962, which
18 must be made without appropriation.

19 (b) The state treasurer shall make the distribution under this
20 section without appropriation.

21 (2) In the event that any ordinance or resolution imposes a sales
22 and use tax at a rate in excess of the applicable limits contained
23 herein, such ordinance or resolution shall not be considered void in
24 toto, but only with respect to that portion of the rate which is in
25 excess of the applicable limits contained herein.

26 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 August 1, 2013.

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