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**SENATE BILL 5798**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Schoesler, Bailey, Becker, Short, Brown, King, Fortunato, Wagoner, Warnick, Honeyford, Takko, Rivers, Zeiger, Holy, Van De Wege, and Wilson, L.

AN ACT Relating to providing a sales and use tax exemption for construction and repair costs associated with fish barrier removal; amending RCW 82.14.050 and 82.14.060; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

(1) Subject to the requirements of this section, the tax levied by RCW 82.08.020 does not apply to:

(a) Charges for labor and services rendered in respect to fish passage barrier removal; or

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of fish passage barrier removal.

(2)(a) The exemption in this section is in the form of a remittance. A buyer claiming an exemption from the tax in the form of a remittance under this section must pay all applicable state and local sales taxes imposed under RCW 82.08.020 and chapter 82.14 RCW on all purchases qualifying for the exemption.

(b) The department must determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer may on a quarterly basis submit an application, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer must retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the location and size of new structures; and construction invoices and documents.

(c) The department must on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(d) A person may request a remittance for state and local sales and use taxes on or after the effective date of this section.

(3) For the purposes of this section, "fish passage barrier removal" means those activities consistent with Title 77 RCW.

NEW SECTION. **Sec.**  A new section is added to chapter 82.12 RCW to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component in fish passage barrier removal.

(2) The eligibility requirements, conditions, and definition in section 1 of this act apply to this section.

**Sec.**  RCW 82.14.050 and 2016 c 191 s 4 are each amended to read as follows:

(1) The counties, cities, and transportation authorities under RCW 82.14.045, public facilities districts under chapters 36.100 and 35.57 RCW, public transportation benefit areas under RCW 82.14.440, regional transportation investment districts, and transportation benefit districts under chapter 36.73 RCW must contract, prior to the effective date of a resolution or ordinance imposing a sales and use tax, the administration and collection to the state department of revenue, which must deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by this chapter that is collected by the department of revenue must be deposited by the state department of revenue in the local sales and use tax account hereby created in the state treasury. Beginning January 1, 2013, the department of revenue must make deposits in the local sales and use tax account on a monthly basis on the last business day of the month in which distributions required in (a) of this subsection are due. Moneys in the local sales and use tax account may be withdrawn only for:

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

(b) Making refunds of taxes imposed under the authority of this chapter and RCW 81.104.170 and exempted under RCW 82.08.962, 82.12.962, 82.08.02565, 82.12.02565, 82.08.025661, ((~~or~~)) 82.12.025661, or section 1 or 2 of this act.

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

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

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

(5) Beginning January 1, 2013, the state treasurer must determine the amount of earnings on investments that would have been credited to the local sales and use tax account if the collections had been deposited in the account over the prior month. When distributions are made under subsection (1)(a) of this section, the state treasurer must transfer this amount from the state general fund to the local sales and use tax account and must distribute such sums to the counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts.

**Sec.**  RCW 82.14.060 and 2016 c 191 s 5 are each amended to read as follows:

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

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

(ii) The amount of any refunds of local sales and use taxes exempted under RCW 82.08.962, 82.12.962, 82.08.02565, 82.12.02565, 82.08.025661, ((~~or~~)) 82.12.025661, or section 1 or 2 of this act, which must be made without appropriation.

(b) The state treasurer must make the distribution under this section without appropriation.

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

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec.**  (1) This act expires on the date that the department of fish and wildlife determines that state fish passage barrier removal is complete and meets the standards set forth in federal court order.

(2) The department of fish and wildlife must provide written notice of the expiration date of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department.

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