
Finance Committee

HB 1431

Brief Description: Clarifying that meals furnished to tenants of senior living communities as part of their rental agreement are not subject to sales and use tax.

Sponsors: Representatives Timmons, Stokesbary, Springer, Corry, Stonier, Abbarno, Rule, Schmick, Street, Fitzgibbon, Jacobsen, Harris, Hutchins, Riccelli, McEntire, Maycumber, Bronoske, Ramel, Robertson, Taylor, Simmons, Tharinger, Berry, Caldier, Reeves, Ortiz-Self, Thai, Christian, Kloba, Bateman, Gregerson, Barnard, Pollet, Reed, Ormsby, Doglio and Cheney.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Excludes food, drink, or meals furnished by a senior living community to tenants as part of a rental or residency agreement from the definition of sale for purposes of taxation.

Hearing Date: 2/2/23

Staff: Kristina King (786-7190).

Background:

Retail 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 defined as 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 tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. Some other local government entities and special purpose districts also impose sales and use taxes for specific purposes. The state sales and use tax rate is

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

6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.9 percent, depending on the location.

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent (businesses with taxable income of less than \$1 million) or 1.75 percent (businesses with taxable income of \$1 million or more) for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Meals Provided to Senior Residents.

Sales of a meal to a consumer is a retail sale subject to retail sales tax as well as the retailing classification for B&O tax. The taxability of meals provided to residents at a senior living community depends on whether the facility provides the meals as part of its healthcare services to its patients or residents.

Meals provided by hospitals, nursing homes, and assisted living facilities are not subject to retail sales tax. Meals provided by an independent senior living residence that does not provide healthcare services are subject to retail sales tax and the facility must also pay retailing B&O tax on the selling price of the meals.

Summary of Bill:

Food, drink, or meals furnished by a senior living community, which includes assisted living facilities and continuing care retirement communities, are exempted from retail sales tax. For those facilities that do not provide meals as part of their healthcare services, the B&O classification is changed from the retailing classification (0.484 percent) to the service and other activities classification (1.5 or 1.75 percent, depending on the facility's annual taxable income).

This applies retroactively and prospectively and is exempted from a tax preference performance statement and review by the Joint Legislative Audit and Review Committee.

Appropriation: None.

Fiscal Note: Available.

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