

FINAL BILL REPORT

SHB 1431

C 416 L 23
Synopsis as Enacted

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: House Committee on Finance (originally sponsored by 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).

House Committee on Finance
Senate Committee on Ways & Means

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 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 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.

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.

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; 1.5 percent for businesses with taxable income of less than \$1 million; or 1.75 percent for 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.

Tax Preference Performance Statement.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary:

Food, drink, or meals provided by a senior living community, which includes assisted living facilities and continuing care retirement communities, are exempted from retail sales and use tax. The B&O tax classification for food, drink, or meals provided by a senior living community is changed from the retailing classification of 0.484 percent to the service and other activities classification, which is 1.5 or 1.75 percent, depending on the facility's annual taxable income. The exemption is excluded from a tax preference performance statement and review by the JLARC.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 23, 2023
January 1, 2030 (Section 2)