

SENATE BILL REPORT

SB 5483

As of January 26, 2023

Title: An act relating to classification of digital processing services.

Brief Description: Concerning the classification of digital processing services.

Sponsors: Senators Stanford, Dozier, Lovick, Mullet, MacEwen, Gildon, Boehnke and Wilson, J..

Brief History:

Committee Activity: Business, Financial Services, Gaming & Trade: 1/26/23.

Brief Summary of Bill

- Clarifies sales and use tax exemptions in statute to include financial institutions use of automated services if the digital automated services are used solely for business purposes.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

Staff: Clinton McCarthy (786-7319)

Background: Retail Sales and Use Tax. Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property (TPP) and some services. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes are applied to the value of most TPP and some services when used in this state. Use tax rates are the same as retail sales tax rates.

In 2009, the Legislature exempted certain digital products from the sales and use tax. Those products include:

- digital products purchased for resale, and digital products incorporated as an ingredient or component of another product for resale:

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- digital products provided free of charge;
- sales of radio and television broadcast programming by a radio or television broadcaster including broadcasts on a pay-per-program basis if the sale of the programming is subject to a franchise fee; and
- standard digital information purchased solely for business purposes.

"Standard digital information" means a digital good consisting primarily of data, facts, or information that is not generated for a specific client or customer.

In April 2022, the Department of Revenue made a determination that a certain online banking platform for a financial institution was not eligible for a digital automated services exemption.

Summary of Bill: Sales and use tax exemptions are clarified in statute to include financial institutions use of automated services if the digital automated services are used solely for business purposes. "Financial institutions" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

Appropriation: None.

Fiscal Note: Requested on January 24, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Washington based financial institutions are facing significant change with respect to how one of its biggest expenses is being treated by the Department of Revenue. In 2009, payment check and payroll processing was exempted from sales and use tax. There was a lot of wiggle room to determine what fit under these exemptions. Financial Institutions have tripped over a threshold that no longer allows them to claim the exemption. This applies to the second largest expense that banks have. During the pandemic banks started to learn the true benefits of investments that have been made in online banking. This bill would ensure that customers would continue to enjoy the same benefits that they have today. The Legislature needs to update digital services and what it means for banking. This tax imposes a penalty on our customers. We need clarity for credit unions, vendors, and the Department of Revenue. The statute needs to be modernized- people have a fundamentally different understanding of how they access their financial institutions in 2023 than they did in 2022.

CON: The Department of Revenue strongly recommends proceeding cautiously. This bill as written would give financial institutions a tax advantage no other industry has, and would open the flood gates for other industries looking for a tax advantage.

Persons Testifying: PRO: Senator Derek Stanford, Prime Sponsor; Brad Tower, Community Bankers of Washington; Glen Simecek, Washington Bankers Association; Joe Adamack, Washington's Credit Unions.

CON: Steve Ewing, Department of Revenue.

Persons Signed In To Testify But Not Testifying: No one.