
Finance Committee

HB 1717

Brief Description: Creating a sales and use tax remittance program for affordable housing.

Sponsors: Representatives Leavitt, Low, Richards, Shavers, Walen, Parshley, Reed and Nance.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Authorizes cities and counties to establish a sales and use tax remittance program for affordable housing.
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Hearing Date: 2/21/25

Staff: Kristina King (786-7190).

Background:

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 are not collected when the user acquires 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. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.1 percent, depending on the location.

Those constructing affordable housing or mixed-use affordable housing generally pay sales and use taxes on materials and labor required to construct them. There are some sales and use tax deferral programs related to affordable housing, like the deferral for underutilized commercial property created in the 2024 legislative session.

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.

Tax Preference Performance Statement.

Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. There are over 700 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 (TPPS) 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 of Bill:

Sales and Use Tax Remittance Program for Affordable Housing.

The legislative authority of a city or county is authorized to adopt a resolution to create a sales and use tax remittance program for the development of affordable housing by eligible organizations. Eligible organizations include:

- nonprofit developers;
- for-profit developers;
- public housing authorities;
- public development authorities; and
- other applicants eligible under rules established by the Washington State Housing Finance Commission.

Public Notice and Hearing Requirements.

The governing authority must hold a hearing to consider the remittance program and provide information pertaining to the application, approval, and appeals process. The governing authority must give public notice of the hearing each week for two consecutive weeks, no more than 30 days before the date of the hearing. The governing authority may authorize the creation of the remittance program following the hearing. A county cannot adopt the remittance program within the limits of a city that adopts the program.

Application Approval or Denial.

To receive an exemption, an eligible organization must apply to the city or county on forms adopted by the governing authority and verify the information provided in the application by oath or affirmation. The governing authority may establish an application fee to cover the cost in administering the program, which must be paid at the time of application. An authorized administrative official or committee of the city or county may approve an application and grant a conditional certificate of program approval (conditional certificate) if:

- the project is set aside primarily for affordable housing or mixed-use affordable housing development, and the applicant commits to renting or selling at least 50 percent of the units to low-income households for a minimum of 40 years;
- the applicant commits to any additional affordability and income eligibility conditions adopted by the local government;
- the project is, or will be, at the time of completion, in conformance with all local plans and

- regulations that apply at the time the application is approved;
- the area is located within an area zoned for residential or mixed uses; and
- all other requirements are met.

If the application is denied, the city or county must state in writing the reasons for denial and send the notice within ten days. The applicant may appeal the decision within 30 days with the burden of proof on the applicant to show that there was no substantial evidence to support the decision. The decision of the city or county on the appeal is final. After an application is approved, an eligible organization with a conditional certificate must apply to the Department of Revenue (DOR) before initiation of construction of the project. The eligible organization must be registered with the DOR to qualify for the exemption.

Certificate of Completion.

Within 30 days of the issuance of a certificate of occupancy for a project, the conditional recipient must file with the governing authority:

- a description of the work completed and a statement that the eligible investment project qualifies the property for a sales and use tax remittance;
- a statement of the new affordable housing to be offered; and
- a statement that the work has been completed within three years of the receipt of the conditional certificate of program approval.

Within 30 days of receipt, the governing authority must issue a certificate of completion, if it determines the investment project continues to qualify for the tax remittance. If a governing authority denies a conditional recipient of a sales and use tax remittance, they must notify the DOR within 15 days. The conditional recipient may file an appeal in superior court within 30 days of notification by the governing authority to deny a remittance of sales and use taxes.

Remittance of Sales and Use Taxes.

An eligible organization claiming a remittance must pay all state and local sales and use taxes on purchases of materials incorporated into, and labor and services rendered in respect to, a qualifying project and apply to the DOR for a remittance of the taxes paid. To receive remittance the eligible organization must submit to the DOR:

- a remittance application in a form and manner required by DOR;
- a certificate of occupancy from the permitting authority;
- a certificate of completion from the city or county affirming the project meets the requirements;
- an information sheet specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which remittance is claimed;
- a signed affidavit from an authorized representative of the city or county requesting or declining the remittance; and
- any other documentation supporting the application.

The DOR may not accept applications for the remittance after December 31, 2035.

Remittance Allocation.

The tax remittance is allocated to the eligible organization and the city or county as follows:

- 50 percent of the state and local sales and use taxes paid by the eligible organization is allocated to the eligible organization; and
- 50 percent of the state portion of the sales and use tax must be distributed to the city or county that authorized the remittance program.

The city or county is required to use the remittance money for:

- acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supported housing services;
- acquiring real property for future affordable housing development;
- funding the operation and maintenance costs of new units of affordable or permanent supportive housing; and
- the operation and delivery of behavioral health treatment programs and services.

If the city or county utilized general fund moneys to support a qualifying project under the remittance program, the city or county may recompense itself. Eligible cities and counties may enter interlocal agreements to combine funds from remittance programs.

Post-Remittance Requirements.

Thirty days after the issuance of the certificate of occupancy and each year, for 40 years, the eligible organization must submit a report to the city to verify compliance with the affordability requirements of the remittance program. The city or county must report annually to the DOR by December 31 of each year, identifying information for each project that received a certificate of completion and notification that the project continues to qualify or no longer qualifies for the remittance.

Cancellation of Remittance.

Exempted taxes are immediately due and payable during the 40 years if the eligible organization notifies the city or county and the DOR that they voluntarily opt to discontinue compliance with the requirements, or if a city or county finds that a portion of the project is changed or will be changed to no longer qualify for the remittance.

Transfer of Investment Project Ownership.

The transfer of investment project ownership does not terminate the exemption if the successor meets the eligibility requirements. The governing authority must certify to the DOR that the successor meets the requirements of the exemption. The transferor must notify the governing authority and the DOR of the transfer and provide the information necessary for the DOR to transfer the exemption. If the transferor fails to make the notification, all exempted sales and use taxes are immediately due and payable. The DOR must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of exemption.

Tax Preference Performance Statement.

A TPPS, 10-year expiration, and JLARC review are included with a TPPS policy objective to expand affordable housing options for low-income households. The JLARC must evaluate the number of housing units and affordable housing units created by projects receiving the exemptions and provide a report to the fiscal committees of the Legislature by December 31, 2033. If the review finds that the number of affordable housing units has not increased, then the Legislature intends to repeal the sales and use tax remittance.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2026.