
SENATE BILL 5111

State of Washington

69th Legislature

2025 Regular Session

By Senators Chapman and Dozier

Prefiled 12/23/24.

1 AN ACT Relating to clarifying the excise tax treatment of amounts
2 received by title and escrow businesses from clients for remittance
3 to a county filing office for the purpose of recording documents;
4 reenacting and amending RCW 82.04.050; adding a new section to
5 chapter 82.04 RCW; creating new sections; and providing an effective
6 date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
9 department of revenue has recently assessed title and escrow
10 businesses for failing to collect and pay sales and use and business
11 and occupation tax on recording surcharges.

12 (2) The legislature finds the department of revenue has not
13 issued rule making or guidance notifying the industry of its
14 obligation to collect and pay sales and use and business and
15 occupation tax on recording surcharges.

16 (3) The legislature finds that some title and escrow companies
17 have been assessed large sums of back taxes for failure to pay sales
18 and use and business and occupation tax on recording surcharges,
19 which creates a severe hardship for these entities, most of which are
20 small independent businesses.

1 (4) The legislature also finds that on February 27, 2024, the
2 court of appeals of the state of Washington, division II, published
3 an opinion in *BIAW v. The State of Washington* and, in that opinion,
4 the court of appeals concluded that Washington's document recording
5 surcharge is an excise tax rather than a fee because the
6 "overwhelming purpose of the surcharge is to alleviate the housing
7 crisis by financing certain funds, which is a desired public benefit.
8 Only one percent of the total surcharge, \$1.83, is distributed and
9 used by the county auditor for its surcharge collection activities."

10 (5) Therefore, it is the intent of the legislature to declare
11 that it is the policy of the state that sales and use and business
12 and occupation taxes may not be levied on a document recording
13 surcharge, which the court of appeals has concluded is an excise tax.

14 **Sec. 2.** RCW 82.04.050 and 2021 c 296 s 8 and 2021 c 143 s 2 are
15 each reenacted and amended to read as follows:

16 (1)(a) "Sale at retail" or "retail sale" means every sale of
17 tangible personal property (including articles produced, fabricated,
18 or imprinted) to all persons irrespective of the nature of their
19 business and including, among others, without limiting the scope
20 hereof, persons who install, repair, clean, alter, improve,
21 construct, or decorate real or personal property of or for consumers
22 other than a sale to a person who:

23 (i) Purchases for the purpose of resale as tangible personal
24 property in the regular course of business without intervening use by
25 such person, but a purchase for the purpose of resale by a regional
26 transit authority under RCW 81.112.300 is not a sale for resale; or

27 (ii) Installs, repairs, cleans, alters, imprints, improves,
28 constructs, or decorates real or personal property of or for
29 consumers, if such tangible personal property becomes an ingredient
30 or component of such real or personal property without intervening
31 use by such person; or

32 (iii) Purchases for the purpose of consuming the property
33 purchased in producing for sale as a new article of tangible personal
34 property or substance, of which such property becomes an ingredient
35 or component or is a chemical used in processing, when the primary
36 purpose of such chemical is to create a chemical reaction directly
37 through contact with an ingredient of a new article being produced
38 for sale; or

1 (iv) Purchases for the purpose of consuming the property
2 purchased in producing ferrosilicon which is subsequently used in
3 producing magnesium for sale, if the primary purpose of such property
4 is to create a chemical reaction directly through contact with an
5 ingredient of ferrosilicon; or

6 (v) Purchases for the purpose of providing the property to
7 consumers as part of competitive telephone service, as defined in RCW
8 82.04.065; or

9 (vi) Purchases for the purpose of satisfying the person's
10 obligations under an extended warranty as defined in subsection (7)
11 of this section, if such tangible personal property replaces or
12 becomes an ingredient or component of property covered by the
13 extended warranty without intervening use by such person.

14 (b) The term includes every sale of tangible personal property
15 that is used or consumed or to be used or consumed in the performance
16 of any activity defined as a "sale at retail" or "retail sale" even
17 though such property is resold or used as provided in (a)(i) through
18 (vi) of this subsection following such use.

19 (c) The term also means every sale of tangible personal property
20 to persons engaged in any business that is taxable under RCW
21 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

22 (2) The term "sale at retail" or "retail sale" includes the sale
23 of or charge made for tangible personal property consumed and/or for
24 labor and services rendered in respect to the following:

25 (a) The installing, repairing, cleaning, altering, imprinting, or
26 improving of tangible personal property of or for consumers,
27 including charges made for the mere use of facilities in respect
28 thereto, but excluding charges made for the use of self-service
29 laundry facilities, and also excluding sales of laundry service to
30 nonprofit health care facilities, and excluding services rendered in
31 respect to live animals, birds and insects;

32 (b) The constructing, repairing, decorating, or improving of new
33 or existing buildings or other structures under, upon, or above real
34 property of or for consumers, including the installing or attaching
35 of any article of tangible personal property therein or thereto,
36 whether or not such personal property becomes a part of the realty by
37 virtue of installation, and also includes the sale of services or
38 charges made for the clearing of land and the moving of earth
39 excepting the mere leveling of land used in commercial farming or
40 agriculture;

1 (c) The constructing, repairing, or improving of any structure
2 upon, above, or under any real property owned by an owner who conveys
3 the property by title, possession, or any other means to the person
4 performing such construction, repair, or improvement for the purpose
5 of performing such construction, repair, or improvement and the
6 property is then reconveyed by title, possession, or any other means
7 to the original owner;

8 (d) The cleaning, fumigating, razing, or moving of existing
9 buildings or structures, but does not include the charge made for
10 janitorial services; and for purposes of this section the term
11 "janitorial services" means those cleaning and caretaking services
12 ordinarily performed by commercial janitor service businesses
13 including, but not limited to, wall and window washing, floor
14 cleaning and waxing, and the cleaning in place of rugs, drapes and
15 upholstery. The term "janitorial services" does not include painting,
16 papering, repairing, furnace or septic tank cleaning, snow removal or
17 sandblasting;

18 (e) Automobile towing and similar automotive transportation
19 services, but not in respect to those required to report and pay
20 taxes under chapter 82.16 RCW;

21 (f) The furnishing of lodging and all other services by a hotel,
22 rooming house, tourist court, motel, trailer camp, and the granting
23 of any similar license to use real property, as distinguished from
24 the renting or leasing of real property, and it is presumed that the
25 occupancy of real property for a continuous period of one month or
26 more constitutes a rental or lease of real property and not a mere
27 license to use or enjoy the same. For the purposes of this
28 subsection, it is presumed that the sale of and charge made for the
29 furnishing of lodging for a continuous period of one month or more to
30 a person is a rental or lease of real property and not a mere license
31 to enjoy the same. For the purposes of this section, it is presumed
32 that the sale of and charge made for the furnishing of lodging
33 offered regularly for public occupancy for periods of less than a
34 month constitutes a license to use or enjoy the property subject to
35 sales and use tax and not a rental or lease of property;

36 (g) The installing, repairing, altering, or improving of digital
37 goods for consumers;

38 (h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g)
39 of this subsection when such sales or charges are for property, labor
40 and services which are used or consumed in whole or in part by such

1 persons in the performance of any activity defined as a "sale at
2 retail" or "retail sale" even though such property, labor and
3 services may be resold after such use or consumption. Nothing
4 contained in this subsection may be construed to modify subsection
5 (1) of this section and nothing contained in subsection (1) of this
6 section may be construed to modify this subsection.

7 (3) The term "sale at retail" or "retail sale" includes the sale
8 of or charge made for personal, business, or professional services
9 including amounts designated as interest, rents, fees, admission, and
10 other service emoluments however designated, received by persons
11 engaging in the following business activities:

12 (a) Abstract(~~(7)~~) and title insurance(~~(7-and-escrow)~~) services;

13 (b) Credit bureau services;

14 (c) Automobile parking and storage garage services;

15 (d) Landscape maintenance and horticultural services but
16 excluding (i) horticultural services provided to farmers and (ii)
17 pruning, trimming, repairing, removing, and clearing of trees and
18 brush near electric transmission or distribution lines or equipment,
19 if performed by or at the direction of an electric utility;

20 (e) Service charges associated with tickets to professional
21 sporting events;

22 (f) The following personal services: Tanning salon services,
23 tattoo parlor services, steam bath services, turkish bath services,
24 escort services, and dating services; (~~and~~)

25 (g) Escrow agent services, as described in RCW 18.44.011 (7) and
26 (8) and 18.44.021(1), that do not include amounts remitted to a
27 county filing office for the purpose of recording documents, if
28 separately identified on a settlement statement, HUD-1, or closing
29 disclosure; and

30 (h)(i) Operating an athletic or fitness facility, including all
31 charges for the use of such a facility or for any associated services
32 and amenities, except as provided in (~~(g)~~) (h)(ii) of this
33 subsection.

34 (ii) Notwithstanding anything to the contrary in (~~(g)~~) (h)(i)
35 of this subsection (3), the term "sale at retail" and "retail sale"
36 under this subsection does not include:

37 (A) Separately stated charges for the use of an athletic or
38 fitness facility where such use is primarily for a purpose other than
39 engaging in or receiving instruction in a physical fitness activity;

1 (B) Separately stated charges for the use of a discrete portion
2 of an athletic or fitness facility, other than a pool, where such
3 discrete portion of the facility does not by itself meet the
4 definition of "athletic or fitness facility" in this subsection;

5 (C) Separately stated charges for services, such as advertising,
6 massage, nutritional consulting, and body composition testing, that
7 do not require the customer to engage in physical fitness activities
8 to receive the service. The exclusion in this subsection (3)(~~(g)~~)
9 (h)(ii)(C) does not apply to personal training services and
10 instruction in a physical fitness activity;

11 (D) Separately stated charges for physical therapy provided by a
12 physical therapist, as those terms are defined in RCW 18.74.010, or
13 occupational therapy provided by an occupational therapy
14 practitioner, as those terms are defined in RCW 18.59.020, when
15 performed pursuant to a referral from an authorized health care
16 practitioner or in consultation with an authorized health care
17 practitioner. For the purposes of this subsection (3)(~~(g)~~) (h)
18 (ii)(D), an authorized health care practitioner means a health care
19 practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57,
20 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

21 (E) Rent or association fees charged by a landlord or residential
22 association to a tenant or residential owner with access to an
23 athletic or fitness facility maintained by the landlord or
24 residential association, unless the rent or fee varies depending on
25 whether the tenant or owner has access to the facility;

26 (F) Services provided in the regular course of employment by an
27 employee with access to an athletic or fitness facility maintained by
28 the employer for use without charge by its employees or their family
29 members;

30 (G) The provision of access to an athletic or fitness facility by
31 an educational institution to its students and staff. However,
32 charges made by an educational institution to its alumni or other
33 members of the public for the use of any of the educational
34 institution's athletic or fitness facilities are a retail sale under
35 this subsection (3)(~~(g)~~) (h). For purposes of this subsection (3)
36 (~~(g)~~) (h)(ii)(G), "educational institution" has the same meaning as
37 in RCW 82.04.170;

38 (H) Yoga, chi gong, or martial arts classes, training, or events
39 held at a community center, park, school gymnasium, college or
40 university, hospital or other medical facility, private residence, or

1 any other facility that is not operated within and as part of an
2 athletic or fitness facility.

3 (iii) Nothing in (~~(g)~~) (h)(ii) of this subsection (3) may be
4 construed to affect the taxation of sales made by the operator of an
5 athletic or fitness facility, where such sales are defined as a
6 retail sale under any provision of this section other than this
7 subsection (3).

8 (iv) For the purposes of this subsection (3)(~~(g)~~) (h), the
9 following definitions apply:

10 (A) "Athletic or fitness facility" means an indoor or outdoor
11 facility or portion of a facility that is primarily used for:
12 Exercise classes; strength and conditioning programs; personal
13 training services; tennis, racquetball, handball, squash, or
14 pickleball; or other activities requiring the use of exercise or
15 strength training equipment, such as treadmills, elliptical machines,
16 stair climbers, stationary cycles, rowing machines, pilates
17 equipment, balls, climbing ropes, jump ropes, and weightlifting
18 equipment.

19 (B) "Martial arts" means any of the various systems of training
20 for physical combat or self-defense. "Martial arts" includes, but is
21 not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing,
22 kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido,
23 Kendo, tai chi, and mixed martial arts.

24 (C) "Physical fitness activities" means activities that involve
25 physical exertion for the purpose of improving or maintaining the
26 general fitness, strength, flexibility, conditioning, or health of
27 the participant. "Physical fitness activities" includes participating
28 in yoga, chi gong, or martial arts.

29 (4)(a) The term also includes the renting or leasing of tangible
30 personal property to consumers.

31 (b) The term does not include the renting or leasing of tangible
32 personal property where the lease or rental is for the purpose of
33 sublease or subrent.

34 (5) The term also includes the providing of "competitive
35 telephone service," "telecommunications service," or "ancillary
36 services," as those terms are defined in RCW 82.04.065, to consumers.

37 (6)(a) The term also includes the sale of prewritten computer
38 software to a consumer, regardless of the method of delivery to the
39 end user. For purposes of (a) and (b) of this subsection, the sale of
40 prewritten computer software includes the sale of or charge made for

1 a key or an enabling or activation code, where the key or code is
2 required to activate prewritten computer software and put the
3 software into use. There is no separate sale of the key or code from
4 the prewritten computer software, regardless of how the sale may be
5 characterized by the vendor or by the purchaser.

6 (b) The term "retail sale" does not include the sale of or charge
7 made for:

8 (i) Custom software; or

9 (ii) The customization of prewritten computer software.

10 (c)(i) The term also includes the charge made to consumers for
11 the right to access and use prewritten computer software, where
12 possession of the software is maintained by the seller or a third
13 party, regardless of whether the charge for the service is on a per
14 use, per user, per license, subscription, or some other basis.

15 (ii)(A) The service described in (c)(i) of this subsection (6)
16 includes the right to access and use prewritten computer software to
17 perform data processing.

18 (B) For purposes of this subsection (6)(c)(ii), "data processing"
19 means the systematic performance of operations on data to extract the
20 required information in an appropriate form or to convert the data to
21 usable information. Data processing includes check processing, image
22 processing, form processing, survey processing, payroll processing,
23 claim processing, and similar activities.

24 (7) The term also includes the sale of or charge made for an
25 extended warranty to a consumer. For purposes of this subsection,
26 "extended warranty" means an agreement for a specified duration to
27 perform the replacement or repair of tangible personal property at no
28 additional charge or a reduced charge for tangible personal property,
29 labor, or both, or to provide indemnification for the replacement or
30 repair of tangible personal property, based on the occurrence of
31 specified events. The term "extended warranty" does not include an
32 agreement, otherwise meeting the definition of extended warranty in
33 this subsection, if no separate charge is made for the agreement and
34 the value of the agreement is included in the sales price of the
35 tangible personal property covered by the agreement. For purposes of
36 this subsection, "sales price" has the same meaning as in RCW
37 82.08.010.

38 (8)(a) The term also includes the following sales to consumers of
39 digital goods, digital codes, and digital automated services:

1 (i) Sales in which the seller has granted the purchaser the right
2 of permanent use;

3 (ii) Sales in which the seller has granted the purchaser a right
4 of use that is less than permanent;

5 (iii) Sales in which the purchaser is not obligated to make
6 continued payment as a condition of the sale; and

7 (iv) Sales in which the purchaser is obligated to make continued
8 payment as a condition of the sale.

9 (b) A retail sale of digital goods, digital codes, or digital
10 automated services under this subsection (8) includes any services
11 provided by the seller exclusively in connection with the digital
12 goods, digital codes, or digital automated services, whether or not a
13 separate charge is made for such services.

14 (c) For purposes of this subsection, "permanent" means perpetual
15 or for an indefinite or unspecified length of time. A right of
16 permanent use is presumed to have been granted unless the agreement
17 between the seller and the purchaser specifies or the circumstances
18 surrounding the transaction suggest or indicate that the right to use
19 terminates on the occurrence of a condition subsequent.

20 (9) The term also includes the charge made for providing tangible
21 personal property along with an operator for a fixed or indeterminate
22 period of time. A consideration of this is that the operator is
23 necessary for the tangible personal property to perform as designed.
24 For the purpose of this subsection (9), an operator must do more than
25 maintain, inspect, or set up the tangible personal property.

26 (10) The term does not include the sale of or charge made for
27 labor and services rendered in respect to the building, repairing, or
28 improving of any street, place, road, highway, easement, right-of-
29 way, mass public transportation terminal or parking facility, bridge,
30 tunnel, or trestle which is owned by a municipal corporation or
31 political subdivision of the state or by the United States and which
32 is used or to be used primarily for foot or vehicular traffic
33 including mass transportation vehicles of any kind.

34 (11) The term also does not include sales of chemical sprays or
35 washes to persons for the purpose of postharvest treatment of fruit
36 for the prevention of scald, fungus, mold, or decay, nor does it
37 include sales of feed, seed, seedlings, fertilizer, agents for
38 enhanced pollination including insects such as bees, and spray
39 materials to: (a) Persons who participate in the federal conservation
40 reserve program, the environmental quality incentives program, the

1 wetlands reserve program, and the wildlife habitat incentives
2 program, or their successors administered by the United States
3 department of agriculture; (b) farmers for the purpose of producing
4 for sale any agricultural product; (c) farmers for the purpose of
5 providing bee pollination services; and (d) farmers acting under
6 cooperative habitat development or access contracts with an
7 organization exempt from federal income tax under 26 U.S.C. Sec.
8 501(c)(3) of the federal internal revenue code or the Washington
9 state department of fish and wildlife to produce or improve wildlife
10 habitat on land that the farmer owns or leases.

11 (12) The term does not include the sale of or charge made for
12 labor and services rendered in respect to the constructing,
13 repairing, decorating, or improving of new or existing buildings or
14 other structures under, upon, or above real property of or for the
15 United States, any instrumentality thereof, or a county or city
16 housing authority created pursuant to chapter 35.82 RCW, including
17 the installing, or attaching of any article of tangible personal
18 property therein or thereto, whether or not such personal property
19 becomes a part of the realty by virtue of installation. Nor does the
20 term include the sale of services or charges made for the clearing of
21 land and the moving of earth of or for the United States, any
22 instrumentality thereof, or a county or city housing authority. Nor
23 does the term include the sale of services or charges made for
24 cleaning up for the United States, or its instrumentalities,
25 radioactive waste and other by-products of weapons production and
26 nuclear research and development.

27 (13) The term does not include the sale of or charge made for
28 labor, services, or tangible personal property pursuant to agreements
29 providing maintenance services for bus, rail, or rail fixed guideway
30 equipment when a regional transit authority is the recipient of the
31 labor, services, or tangible personal property, and a transit agency,
32 as defined in RCW 81.104.015, performs the labor or services.

33 (14) The term does not include the sale for resale of any service
34 described in this section if the sale would otherwise constitute a
35 "sale at retail" and "retail sale" under this section.

36 (15)(a) The term "sale at retail" or "retail sale" includes
37 amounts charged, however labeled, to consumers to engage in any of
38 the activities listed in this subsection (15)(a), including the
39 furnishing of any associated equipment or, except as otherwise
40 provided in this subsection, providing instruction in such

1 activities, where such charges are not otherwise defined as a "sale
2 at retail" or "retail sale" in this section:

3 (i) (A) Golf, including any variant in which either golf balls or
4 golf clubs are used, such as miniature golf, hitting golf balls at a
5 driving range, and golf simulators, and including fees charged by a
6 golf course to a player for using his or her own cart. However,
7 charges for golf instruction are not a retail sale, provided that if
8 the instruction involves the use of a golfing facility that would
9 otherwise require the payment of a fee, such as green fees or driving
10 range fees, such fees, including the applicable retail sales tax,
11 must be separately identified and charged by the golfing facility
12 operator to the instructor or the person receiving the instruction.

13 (B) Notwithstanding (a) (i) (A) of this subsection (15) and except
14 as otherwise provided in this subsection (15) (a) (i) (B), the term
15 "sale at retail" or "retail sale" does not include amounts charged to
16 participate in, or conduct, a golf tournament or other competitive
17 event. However, amounts paid by event participants to the golf
18 facility operator are retail sales under this subsection (15) (a) (i).
19 Likewise, amounts paid by the event organizer to the golf facility
20 are retail sales under this subsection (15) (a) (i), if such amounts
21 vary based on the number of event participants;

22 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,
23 paragliding, parasailing, and similar activities;

24 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,
25 ping pong, and similar games;

26 (iv) Access to amusement park, theme park, and water park
27 facilities, including but not limited to charges for admission and
28 locker or cabana rentals. Discrete charges for rides or other
29 attractions or entertainment that are in addition to the charge for
30 admission are not a retail sale under this subsection (15) (a) (iv).
31 For the purposes of this subsection, an amusement park or theme park
32 is a location that provides permanently affixed amusement rides,
33 games, and other entertainment, but does not include parks or zoos
34 for which the primary purpose is the exhibition of wildlife, or
35 fairs, carnivals, and festivals as defined in (b) (i) of this
36 subsection;

37 (v) Batting cage activities;

38 (vi) Bowling, but not including competitive events, except that
39 amounts paid by the event participants to the bowling alley operator
40 are retail sales under this subsection (15) (a) (vi). Likewise, amounts

1 paid by the event organizer to the operator of the bowling alley are
2 retail sales under this subsection (15)(a)(vi), if such amounts vary
3 based on the number of event participants;

4 (vii) Climbing on artificial climbing structures, whether indoors
5 or outdoors;

6 (viii) Day trips for sightseeing purposes;

7 (ix) Bungee jumping, zip lining, and riding inside a ball,
8 whether inflatable or otherwise;

9 (x) Horseback riding offered to the public, where the seller
10 furnishes the horse to the buyer and providing instruction is not the
11 primary focus of the activity, including guided rides, but not
12 including therapeutic horseback riding provided by an instructor
13 certified by a nonprofit organization that offers national or
14 international certification for therapeutic riding instructors;

15 (xi) Fishing, including providing access to private fishing areas
16 and charter or guided fishing, except that fishing contests and
17 license fees imposed by a government entity are not a retail sale
18 under this subsection;

19 (xii) Guided hunting and hunting at game farms and shooting
20 preserves, except that hunting contests and license fees imposed by a
21 government entity are not a retail sale under this subsection;

22 (xiii) Swimming, but only in respect to (A) recreational or
23 fitness swimming that is open to the public, such as open swim, lap
24 swimming, and special events like kids night out and pool parties
25 during open swim time, and (B) pool parties for private events, such
26 as birthdays, family gatherings, and employee outings. Fees for
27 swimming lessons, to participate in swim meets and other
28 competitions, or to join a swim team, club, or aquatic facility are
29 not retail sales under this subsection (15)(a)(xiii);

30 (xiv) Go-karting, bumper cars, and other motorized activities
31 where the seller provides the vehicle and the premises where the
32 buyer will operate the vehicle;

33 (xv) Indoor or outdoor playground activities, such as inflatable
34 bounce structures and other inflatables; mazes; trampolines; slides;
35 ball pits; games of tag, including laser tag and soft-dart tag; and
36 human gyroscope rides, regardless of whether such activities occur at
37 the seller's place of business, but not including playground
38 activities provided for children by a licensed child day care center
39 or licensed family day care provider as those terms are defined in
40 RCW 43.216.010;

1 (xvi) Shooting sports and activities, such as target shooting,
2 skeet, trap, sporting clays, "5" stand, and archery, but only in
3 respect to discrete charges to members of the public to engage in
4 these activities, but not including fees to enter a competitive
5 event, instruction that is entirely or predominately classroom based,
6 or to join or renew a membership at a club, range, or other facility;

7 (xvii) Paintball and airsoft activities;

8 (xviii) Skating, including ice skating, roller skating, and
9 inline skating, but only in respect to discrete charges to members of
10 the public to engage in skating activities, but not including skating
11 lessons, competitive events, team activities, or fees to join or
12 renew a membership at a skating facility, club, or other
13 organization;

14 (xix) Nonmotorized snow sports and activities, such as downhill
15 and cross-country skiing, snowboarding, ski jumping, sledding, snow
16 tubing, snowshoeing, and similar snow sports and activities, whether
17 engaged in outdoors or in an indoor facility with or without snow,
18 but only in respect to discrete charges to the public for the use of
19 land or facilities to engage in nonmotorized snow sports and
20 activities, such as fees, however labeled, for the use of ski lifts
21 and tows and daily or season passes for access to trails or other
22 areas where nonmotorized snow sports and activities are conducted.
23 However, fees for the following are not retail sales under this
24 subsection (15) (a) (xix): (A) Instructional lessons; (B) permits
25 issued by a governmental entity to park a vehicle on or access public
26 lands; and (C) permits or leases granted by an owner of private
27 timberland for recreational access to areas used primarily for
28 growing and harvesting timber; and

29 (xx) Scuba diving; snorkeling; river rafting; surfing;
30 kiteboarding; flyboarding; water slides; inflatables, such as water
31 pillows, water trampolines, and water rollers; and similar water
32 sports and activities.

33 (b) Notwithstanding anything to the contrary in this subsection
34 (15), the term "sale at retail" or "retail sale" does not include
35 charges:

36 (i) Made for admission to, and rides or attractions at, fairs,
37 carnivals, and festivals. For the purposes of this subsection, fairs,
38 carnivals, and festivals are events that do not exceed 21 days and a
39 majority of the amusement rides, if any, are not affixed to real
40 property;

1 (ii) Made by an educational institution to its students and staff
2 for activities defined as retail sales by (a)(i) through (xx) of this
3 subsection. However, charges made by an educational institution to
4 its alumni or other members of the general public for these
5 activities are a retail sale under this subsection (15). For purposes
6 of this subsection (15)(b)(ii), "educational institution" has the
7 same meaning as in RCW 82.04.170;

8 (iii) Made by a vocational school for commercial diver training
9 that is licensed by the workforce training and education coordinating
10 board under chapter 28C.10 RCW; or

11 (iv) Made for day camps offered by a nonprofit organization or
12 state or local governmental entity that provide youth not older than
13 age 18, or that are focused on providing individuals with
14 disabilities or mental illness, the opportunity to participate in a
15 variety of supervised activities.

16 (16)(a) The term "sale at retail" or "retail sale" includes the
17 purchase or acquisition of tangible personal property and specified
18 services by a person who receives either a qualifying grant exempt
19 from tax under RCW 82.04.767 or 82.16.320 or a grant deductible under
20 RCW 82.04.4339, except for transactions excluded from the definition
21 of "sale at retail" or "retail sale" by any other provision of this
22 section. Nothing in this subsection (16) may be construed to limit
23 the application of any other provision of this section to purchases
24 by a recipient of either a qualifying grant exempt from tax under RCW
25 82.04.767 or a grant deductible under RCW 82.04.4339, or by any other
26 person.

27 (b) For purposes of this subsection (16), "specified services"
28 means:

29 (i) The constructing, repairing, decorating, or improving of new
30 or existing buildings or other structures under, upon, or above real
31 property, including the installing or attaching of any article of
32 tangible personal property therein or thereto, whether or not such
33 personal property becomes a part of the realty by virtue of
34 installation;

35 (ii) The clearing of land or the moving of earth, whether or not
36 associated with activities described in (b)(i) of this subsection
37 (16);

38 (iii) The razing or moving of existing buildings or structures;
39 and

40 (iv) Landscape maintenance and horticultural services.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.04
2 RCW to read as follows:

3 (1) This chapter does not apply to amounts remitted to a county
4 filing office for the purpose of recording documents.

5 (2) A person is eligible for the exemption under this section if
6 the person is primarily engaged in escrow agent services as described
7 in RCW 18.44.011 (7) and (8) and 18.44.021(1).

8 (3) The remittance amounts must be separately identified on a
9 settlement statement, HUD-1, or closing disclosure.

10 NEW SECTION. **Sec. 4.** RCW 82.32.805 and 82.32.808 do not apply
11 to this act.

12 NEW SECTION. **Sec. 5.** This act takes effect January 1, 2026.

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