

# FINAL BILL REPORT

## ESSB 5739

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C 11 L 95 E2

Synopsis as Enacted

**Brief Description:** Exempting certain sales by nonprofit organizations from sales and use taxes.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Strannigan, Rinehart, Johnson, Quigley, Long, Owen, Cantu, Hale, Finkbeiner, McCaslin, Palmer, Hochstatter, McDonald, Spanel, Schow, Prentice, Moyer, Loveland, Swecker, West, Rasmussen, Smith, Drew, Haugen, Franklin, Fairley, A. Anderson, Wojahn, Heavey, McAuliffe, Kohl, Hargrove, Oke and Bauer).

**Senate Committee on Ways & Means**

**House Committee on Finance**

**Background:** Nonprofit organizations are subject to the business and occupation (B&O) tax on their income, and must collect sales taxes on their sales unless specifically exempt by statute. Exemption from federal income tax does not automatically provide an exemption for state taxes. Most nonprofit organizations pay B&O tax at the services rate of 2.09 percent. However, because of the \$420 per year B&O tax credit, nonprofit organizations with gross incomes below \$20,096 per year owe no B&O tax.

Nonprofit organizations are exempt from the B&O tax and are not required to collect sales tax on the following fund-raising activities.

Public Benefit Organization Auctions. Income from fund-raising auctions conducted by nonprofit organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code is exempt from B&O tax and sales tax if the auction is held no more than once a year for a period no greater than two days. Organizations exempt from federal income tax under section 501(c)(3) of the federal Internal Revenue Code include organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; or to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals. No part of the net earnings may inure to the benefit of any private individual or shareholder, nor may a substantial part of the activities attempt to influence legislation. In addition, the organization may not participate in any political campaign.

Bazaars and Rummage Sales. Income from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax if the sales are conducted no more than twice each year, each sale lasts no more than two days, and the income from each sale does not exceed \$1,000. Sales tax does not apply to sales that are infrequent enough to be considered casual and isolated. The Department of Revenue has interpreted sales at nonprofit bazaars and rummage sales to be casual and isolated as long as the same criteria for the B&O tax exemption are met.

Fund-Raising Drives/Concessions. By rule of the Department of Revenue, income from fund-raising drives and concessions conducted by nonprofit organizations other than public benefit organization auctions is exempt from B&O tax and sales tax if the activities meet the criteria for exemption as bazaars and rummage sales.

Meals. By rule of the Department of Revenue, income to nonprofit organizations from the serving of meals for fund-raising purposes is exempt from B&O tax and sales tax if the meals are served no more frequently than once every two weeks and the gross receipts are \$1,000 or less.

A deduction is authorized from the B&O tax for governmental payments to nonprofit organizations and political subdivisions for health and social welfare services. In respect to child-related services, these services include activities to prevent juvenile delinquency and child abuse, including recreational activities, the care of orphans and foster children, and the day care of children.

**Summary:** The first \$20,000 received in a calendar year by a nonprofit organization from bazaars and rummage sales is exempt from the B&O tax and the sales are not subject to sales tax. A B&O tax exemption is provided for income from child care resource and referral services provided by a nonprofit organization.

**Votes on Final Passage:**

Senate	48	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)

First Special Session

Senate	46	0	
House	97	0	(House amended)

Second Special Session

Senate	47	0	
House	93	1	
House	94	0	(House reconsidered)

**Effective:** July 1, 1995