



SB 5220 - Ensuring a Tax Exemption for Habitat Restoration Projects

The Problem

State, local, and federal government agencies fund numerous salmon habitat restoration or enhancement projects for salmon recovery throughout Washington State. Much of this governmental funding is provided to nonprofit conservation organizations that, in turn, are responsible for coordinating or facilitating the complex, multi-benefit projects. The funding may be in the form of a grant award in advance of a particular project, or by reimbursing the organization for costs incurred during the project.

In 2019, the Department of Revenue informed these nonprofits that unless there is a specific tax exemption or deduction for the habitat grant activity, a nonprofit conservation organization is responsible for paying business and occupation (B&O) tax on its gross income and is responsible for collecting and remitting retail sales tax on any services or sales provided.

This was a change in interpretation. Up until this time, these non-profits relied upon a law passed in 2004 (RCW 82.04.4339) that provides a tax exemption for grants used for salmon restoration purposes. DOR did not interpret grants as contracts for service since the nonprofits were doing the work on behalf of government entities for the public benefit, and they were paying taxes on goods and services, construction and services when provided to other entities as other tax statute required.

The Solution

The Department of Revenue worked with stakeholders through 2020 to devise **legislation that clarifies current statute** to say when a non-profit organization receives grant funding from a government entity for habitat or salmon restoration work (RCW 82.04.4339), including indirect grants often referred to as "contract agreements" that they are exempt from business and occupation and retail sales tax.

The result is SB 5220 (Bill sponsor Sen. Van De Wege at the request of DOR). The legislation:

- Provides an exemption from sales tax for the receipt of qualifying salmon restoration grants.
- Clarifies that the use of salmon restoration grant funds by the grantee to purchase tangible personal property or specified services would still be subject to sales tax; and
- Updates the B&O tax deduction in RCW 82.04.4339 for salmon restoration grants to include amounts received from federally recognized Indian tribes.
- Has a very minimal impact to State revenue because the new DOR interpretation has not gone into effect.