



This Week in State Tax (TWIST)

March 23, 2026



Washington: Legislature acts on multiple tax bills

The Washington State Legislature adjourned on March 12 and sent several measures aiming to restructure the state tax code to Governor Bob Ferguson's desk. With Engrossed Substitute Senate Bill [6346](#), the legislature would impose a new income tax on certain high-income individuals in the state. In addition, the bill would remove from the retail sales tax base and retailing business and occupation (B&O) tax base certain services that were made taxable as of October 2025 under Engrossed Substitute Senate Bill [5814](#). The legislature would make further technical and administrative changes with regard to those taxable services under Engrossed Substitute Senate Bill [6113](#). Finally, with Engrossed Substitute Senate Bill [6231](#), the legislature would remove a sales tax exemption provided for replacement equipment for data centers.

ESSB 6346 would impose a 9.9 percent tax on individuals with Washington taxable income (as defined) over \$1 million beginning January 1, 2028. The bill is designed to avoid duplicative taxation with the state's tax on certain capital gains and provides either a deduction or a credit for certain charitable contributions, income taxes paid to other states, and certain Washington business and occupation and public utility taxes. The bill includes a pass-through entity tax election which allows the income tax to be paid at the entity level, thus enabling the pass-through owners to claim a credit against their income tax liability for the tax paid at the entity level.

In addition, ESSB 6346 phases in several sales and B&O tax changes beginning January 1, 2029, including sales and use tax exemptions for grooming and hygiene products, diapers, and over-the-counter drugs, and exemptions from the high grossing business surcharge for certain hospital, prescription drug warehousing, and health-care-provider income. On the same effective date, the bill removes several items from the definition of "retail sale," including information technology training services, custom website development services, investigation services, temporary staffing services, live presentations, and custom software and customization of prewritten software. As a result, of the various services that were newly defined as "retail sales" beginning October 1, 2025, under ESSB 5814, only certain digital advertising services would remain subject to tax as of January 1, 2029. The bill would also reinstate key exclusions from the definition of "digital automated services" (DAS) for primarily human-effort services, live interactive presentations, and certain data processing services.

In addition to financing the changes in the sales tax outlined above, proceeds from the bill are directed to the general fund and will be used in part to substantially expand an existing working families tax credit, as well as reducing the business and occupation tax on certain type of small businesses. The income tax bill also includes a "null and void" provision under which, if the income tax provision is invalidated by a court of final jurisdiction, the act is void in its entirety. A legal challenge is expected. A state supreme court precedent from the 1930s effectively prohibits a progressive income tax in the state.

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A second bill, ESSB 6113, codifies much of the Department of Revenue's Interim Guidance on the scope and sourcing of the services newly defined as "retail sales" under ESSB 5814. Effective retroactive to October 1, 2025, the bill clarifies the types of activities that qualify as information technology services and investigation services for retail sales tax purposes; confirms that "temporary staffing services" do not include direct hires, paymaster arrangements, or independent contractors; and narrows what constitutes a taxable "live presentation" by excluding, among other things, accredited preschool through higher-education classes, musical and similar performances, one-on-one instruction (such as tutoring and music lessons), certain religious presentations, and certain youth camps. The bill specifically addresses advertising services by (1) clarifying that, when a seller cannot source advertising to a local jurisdiction due to lack of information, the seller must source the services statewide as prescribed by the Department; (2) authorizing use of a multiple points of use (MPU) exemption certificate for purchases of advertising concurrently used within and outside Washington; (3) confirming that a DAS incidental to an underlying service is not subject to retail sales tax if the underlying service is taxed under a non-retailing B&O classification; and (4) applying use tax to all newly enacted retail services except live presentations. The bill also authorizes exclusions for customized software and customization of prewritten software and for certain DAS and services when sold to another member within an affiliated group, provides a transaction grace period for specified existing contracts, and offers penalty relief for taxpayers that inadvertently failed to collect tax on new retail services if they meet stated conditions and apply by the statutory deadline.

Finally, ESSB 6231 would provide that the sales tax exemption for data centers that qualify through refurbishment expires on July 1, 2026, and no new exemption certificates for such data centers may be granted on or after that date. The bill would remove replacement server equipment from the definition of equipment eligible for exemption.

If you have any questions regarding these measures or other Washington retail sales tax or B&O tax matters, please reach out to [Michele Baisler](#) or [Alex Low](#).

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