

SENATE BILL REPORT

SB 6385

As Reported By Senate Committee On:
Ways & Means, February 16, 2006

Title: An act relating to providing excise tax relief by modifying due dates and eliminating an assessment penalty.

Brief Description: Providing excise tax relief by modifying due dates and eliminating an assessment penalty.

Sponsors: Senators Prentice, Doumit, Rasmussen, Fairley, Zarelli, Rockefeller, Brandland, Fraser, Pflug and Sheldon; by request of Governor Gregoire.

Brief History:

Committee Activity: Ways & Means: 2/1/06, 2/16/06 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6385 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Kohl-Welles, Parlette, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Thibaudeau.

Staff: Dean Carlson (786-7305)

Background: The Department of Revenue (DOR) collects the state's major excise taxes, such as the retail sales tax and the business and occupation (B&O) tax. For large businesses, excise taxes must be paid monthly. In 2003, the Legislature changed the due date for monthly tax returns from the 25th to the 20th day. The DOR is authorized by statute to allow smaller businesses to report taxes quarterly or annually. Quarterly and annual returns are due by the end of the month following the end of the reporting period.

Penalties are imposed if taxes are not paid on time. In 2003, the Legislature increased penalties for late excise taxes. In addition, a new penalty of 5 percent was applied to any billing or assessment of unpaid tax by the DOR. If taxes remain unpaid, the penalties increase over time.

In 1990, the Legislature required taxpayers with an annual tax liability of more than \$240,000 to make payment of their excise tax returns using electronic funds transfer (EFT). In 1999, the Legislature allowed any taxpayer to make payment using electronic funds. An EFT payment must be completed so that the state receives the collectible funds on or before the next banking day after the due date. There are two methods of paying taxes by EFT: Automated Clearinghouse (ACH) debit and ACH credit.

Summary of Substitute Bill: Taxpayers filing monthly excise tax returns are required to report and pay taxes by the 25th of the month rather than the 20th. This change applies to tax returns due after July 31, 2006.

A waiver of the 5% assessment penalty is provided for businesses if; the business has timely filed for the 12 months preceding the deficiency, the amount of underpaid tax is less than 20% of the tax due, and the assessment is not for more than a 12 month period.

If a taxpayer uses the ACH debit procedure for an EFT, the payment will be deemed to have been received on the due date if the taxpayer initiates the transfer on or before 11:59 p.m. Pacific time on the due date with a payment effective date on or before the next banking day after the due date. A legislative findings section recites the DOR's understanding of the automated clearinghouse procedure. These EFT provisions apply to payments due after July 31, 2006.

Substitute Bill Compared to Original Bill: Removed the elimination of the 5 percent assessment penalty and replaced it with the conditional waiver of the penalty.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Testimony For: During the last summer and fall, we held stakeholder meetings. At all the meetings, these items came up as difficulties for taxpayers. They felt the 5 percent penalty was unfair, especially if they make a minor math mistake. Many felt it difficult to remit taxes before they received their account receivable. We had thousand of phone calls from small businesses that have had problems with the due date change. This was compounded by the mandatory penalty. We heard that when the date went to the 20th that it was tough for businesses to close their books in time to pay the taxes. This bill is great for the retail industry, but it caused great difficulty for our members.

Testimony Against: None.

Who Testified: PRO: Cindi Holmstrom, Department of Revenue; Carolyn Logue, NFIB; Amber Carter, AWB; Gary Smith, IBA; Jan Gee, Washington Retail Association and Washington Food Industry.