

HOUSE BILL REPORT

HB 1743

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to tax incentives for the production, distribution, sale, and use of alcohol fuel, wood biomass fuel, biodiesel fuel, and biodiesel feedstock.

Brief Description: Concerning tax incentives for the production, distribution, sale, and use of alcohol fuel, wood biomass fuel, biodiesel fuel, and biodiesel feedstock.

Sponsors: Representatives Takko, McCoy, Van De Wege and Kessler.

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/9/09, 2/11/09 [DP].

Brief Summary of Bill

- Extends expiration dates for tax preferences relating to production, distribution, sale, and use of alcohol fuel, wood biomass fuel, biodiesel fuel, biodiesel feedstock, and anaerobic digesters.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: Do pass. Signed by 16 members: Representatives McCoy, Chair; Eddy, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Carlyle, Condotta, Finn, Hasegawa, Herrera, Hinkle, Hudgins, Jacks, McCune, Morris, Takko and Van De Wege.

Staff: Scott Richards (786-7156)

Background:

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state without any deduction for the costs of doing business. Revenues are deposited in the state General Fund.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A business may have more than one B&O tax rate, depending on the type of activities conducted. There are a number of different rates. The main rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere.

B&O Tax Rate for Biodiesel Fuel, Biodiesel Feedstock, Alcohol Fuel, and Wood Biomass Fuel.

The tax rate for manufacturers of biodiesel fuel, biodiesel feedstock, alcohol fuel, and wood biomass fuel is 0.138 percent. For manufacturers of biodiesel, biodiesel feedstock, and alcohol fuel the preferential tax rate expires on July 1, 2009. For manufacturers of wood biomass fuel the preferential tax rate does not expire.

B&O Tax Deduction for Retail Sale or Distribution of Wood Biomass Fuel.

A business may deduct from its B&O tax obligation the amount it receives from the retail sale or distribution of wood biomass fuels. This deduction expires on July 1, 2009.

Sales and Use Taxes.

Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. The use tax is paid directly to the Department of Revenue.

Retail Sales and Use Taxes for Wood Biomass Fuel Machinery and Equipment.

The purchase of machinery and equipment and the construction of facilities used directly for the sale of wood biomass fuel blends are exempt from sales and use tax. The purchase of fuel delivery vehicles and labor and service charges related to these vehicles are exempt from sales and use tax, provided that 75 percent of the fuel distributed by them is wood biomass fuel blend. This sale and use tax exemption expires on July 1, 2009.

Property and Leasehold Tax.

All real and personal property is subject to property tax each year based on its value, unless a specific exemption is provided by law. There are two classes of property. Real property consists of land and the buildings, structures, and improvements that are affixed to the land. Personal property consists of all other property.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties. Cities and counties may impose a local tax which is credited against the state tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Property and Leasehold Interest Tax Exemption for Manufacturers of Alcohol Fuel, Biodiesel Fuel, Biodiesel Feedstock, Wood Biomass, or Operators of Anaerobic Digesters.

Manufacturers of alcohol fuel, biodiesel fuel, biodiesel feedstock, or wood biomass fuel are eligible for a property or a leasehold excise tax exemption. To qualify for the property and leasehold tax exemption, the property or leasehold interest must be used primarily for manufacturing alcohol, biodiesel or wood biomass fuels, biodiesel feedstocks, or operating an anaerobic digester. A qualifying property or a leasehold interest includes buildings, machinery and equipment, and other personal property and land associated with the manufacturing of these products, but not the land used to grow crops.

For manufacturing facilities that produce other products in addition to biodiesel, alcohol, wood biomass fuels, or biodiesel feedstock, the property and leasehold tax exemption must be computed on a ratio based on the annual value of the biodiesel, alcohol, wood biomass fuels, or biodiesel feedstock as compared to the annual value of all other products produced.

Buildings, machinery, equipment, and other personal property, as well as the land on which the property or leasehold interest is located, are exempt from property and leasehold taxes for six years from the date the facility becomes operational. No claims for the property and leasehold tax exemption may be filed after December 31, 2009, except for claims for anaerobic digesters, which must be filed by December 31, 2012.

Definitions.

"Wood biomass fuel" is defined as a pyrolytic liquid fuel or synthesis gas-derived liquid fuel used in internal combustion engines, and produced from wood, forest, or field residue, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic.

"Alcohol fuel" is defined as any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements, and machines or implements of husbandry.

"Biodiesel fuel" is defined as a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines that meets the requirements of the American Society of Testing and Materials specification D 6751 in effect as of January 1, 2003.

"Biodiesel feedstock" is defined as oil produced from an agricultural crop for the sole purpose of ultimately producing biodiesel fuel.

Summary of Bill:

B&O Tax Rate for Biodiesel Fuel, Biodiesel Feedstock, Alcohol Fuel, and Wood Biomass Fuel.

The preferential B&O tax rate for the manufacturing of biodiesel fuel, biodiesel feedstock, alcohol fuel, and wood biomass fuel is extended to July 1, 2015.

B&O Tax Deduction for Retail Sale or Distribution of Wood Biomass Fuel.

The B&O deduction for the retail sale or distribution of wood biomass fuels is extended to July 1, 2015.

Retail Sales and Use Taxes for Wood Biomass Fuel Machinery and Equipment.

The retail sales and use tax exemption for wood biomass fuel machinery and equipment is extended to July 1, 2015.

Property and Leasehold Interest Tax Exemption for Manufacturers of Alcohol Fuel, Biodiesel Fuel, Biodiesel Feedstock, Wood Biomass, or Operators of Anaerobic Digesters.
Property and leasehold interest tax exemptions are extended to December 31, 2012.

Reporting Requirements.

Each person claiming a tax preference must file a complete annual survey with the Department of Revenue (Department). The survey must contain the amount of the tax preference claimed and information for employment positions located in Washington. Information on the amount of tax preference claimed may be disclosed to the public. If the claim amount is less than \$10,000, a person may request that the Department treat the amount of the tax reduction or savings as confidential. The amount of the tax preference claimed is due immediately if a person fails to submit a complete annual survey by the due date. The Department must assess interest on the amount due for delinquent taxes. The Department must prepare a summary of statistics by category and report these statistics to the Legislature. If there are circumstances beyond the control of the taxpayer that prevents the filing of the annual survey, the Department must extend the time for filing the survey. Annual surveys must be filed electronically in a format provided by the Department.

Appropriation: None.

Fiscal Note: Requested on February 5, 2009.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except Section 1 relating to a preferential B&O tax rate for biodiesel fuel, biodiesel feedstock, alcohol fuel, and wood biomass fuel; Section 2 relating to B&O tax deduction for retail sale or distribution of wood biomass fuel; Sections 3 and 4 relating to sales and use tax exemptions for wood biomass fuel machinery and equipment; and Sections 8 and 10 relating to reporting requirements for those receiving tax incentives contained in the bill, which contain an emergency clause and take effect June 30, 2009.

Staff Summary of Public Testimony:

(In support). This bill pushes out the dates on these tax incentives that expire next year. It also adds reporting requirements.

(Opposed) None.

Persons Testifying: Representative Takko, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.