
Finance Committee

HB 2972

Brief Description: Increasing revenues by eliminating and narrowing preferential tax treatment.

Sponsors: Representatives Hunter, Williams and Conway; by request of Department of Revenue.

Brief Summary of Bill

- Repeals the business and occupation (B&O) tax and sales tax exemptions for precious metal bullion and monetized bullion.
- Eliminates sales tax exemption for nutrient management equipment, facilities and related services for beef cattle feeding operations between July 1, 2010 and July 1, 2013.
- Makes corporate board of directors fees subject to the B&O tax at the 1.5 percent tax rate.

Hearing Date: 1/28/10

Staff: Rick Peterson (786-7150).

Background:

Prior to 1985 sales of precious metal bullion and monetized bullion were subject to retail sales tax and state business and occupation (B&O) tax. Retailers collected state sales tax, plus applicable local sales taxes, from purchasers while sellers were subject to B&O tax on the gross receipts of such transactions. However, in 1985, an exemption from the retail sales tax was created for the sale of precious metals and monetized bullion. The sellers of precious metals and monetized bullion are taxed at the 1.5 percent service rate on their commissions.

Precious metal bullion are metals refined or smelted into a form where the value is attributable to the content of the product rather than its form. Examples of metal bullion specified in the statute include gold, silver, platinum, rhodium, and palladium. Monetized bullion means coins and other metals used as a medium of exchange. The exemption does not apply to precious metal or

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monetized bullion that is used to produce jewelry or artwork, for which the value does depend upon the form of the product.

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes are applied to the value of most tangible personal property and some services when used in this state. Use tax rates are the same as retail sales tax rates. The state tax rate is 6.5 percent, and depending on the location, local tax rates vary from 0.5 percent to 3.0 percent. The average local tax rate is 2.4, for an average combined state and local tax rate of 8.9 percent.

In 2001 the Legislature provided an exemption from sales and use taxes for dairy nutrient management equipment, facilities, and related services. To be eligible the person had to have a certified dairy nutrient management plan. In 2006 the sales and use tax exemption was broadened beyond dairy to other sectors of the livestock industry that had approved nutrient management plans.

A sales and use tax exemption applies to the materials, machinery, equipment, and labor and services purchased or used in relation to the operation, repair, cleaning, alteration, or improvement of livestock nutrient management facilities and equipment. Livestock nutrient management facilities and equipment are machinery, equipment, and structures used in the handling and treatment of livestock manure, such as aerators, agitators, alley scrapers, and augers. The exemption includes repair and replacement parts. The exemption requires facilities and equipment to be used exclusively for activities necessary to maintain a livestock nutrient management plan.

The wages of employees is exempt from the B&O tax. Members of corporate boards of directors receive fees for their services. Corporate directors are not employees of the corporation when they engage in their roles as corporate directors.

Summary of Bill:

The business and occupation (B&O) tax and sales tax exemptions for sales of precious metal bullion and monetized bullion are repealed. Sales tax will apply to the sale of precious metal bullion and monetized bullion. The B&O tax will be based on the gross receipts from sales of precious metal bullion and monetized bullion.

Starting July 1, 2010 beef cattle feeding operations are not eligible for the sales tax exemption for nutrient management equipment, facilities, and related services. The exemption begins again on July 1, 2013. The Department of Revenue must notify beef cattle feeding operations that their exemption certificates are not longer valid after June 30, 2010. If a taxpayer uses the exemption certificate after June 30, 2010 a 50 percent penalty applies.

The fees paid to members of corporate boards of directors are not exempt from B&O taxation as employee wages, and are subject to tax under the service & other classification at the 1.5 percent tax rate.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 101 through 203 (relating to repealing the exemptions precious metal bullion and monetized bullion and for nutrient management equipment and facilities), which are effective July 1, 2010.