

SENATE BILL REPORT

SB 6395

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 11, 1992

Brief Description: Concerning the business and occupation taxation of stock brokers, broker-dealers, and security houses.

SPONSORS: Senators von Reichbauer, Moore, Erwin, Vognild and Conner

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators von Reichbauer, Chairman; Erwin, Vice Chairman; McCaslin, Moore, Owen, Rasmussen, Sellar, Vognild, and West.

Staff: Tom Fender (786-7414)

Hearing Dates: January 31, 1992

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6395 be substituted therefor, and the substitute bill do pass.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bauer, Bluechel, Cantu, Gaspard, M. Kreidler, Matson, Metcalf, Murray, Newhouse, L. Smith, Talmadge, West, and Wojahn.

Staff: Terry Wilson (786-7715)

Hearing Dates: February 10, 1992; February 11, 1992

BACKGROUND:

Business organizations are assessed a business and occupation (B&O) tax at varying rates established by law. The tax is on business transactions for which a separate fee is received. Certain businesses involve only one transaction and share the fee among several business organizations. A transaction for which commission is received is one example of this.

When the B&O tax is applied in this situation, the tax pyramids. The initial business receiving the gross commission is taxed; the business receiving a share is also taxed and therefore the same funds are taxed twice.

The measure of tax on certain occupations involving commission payments has been changed by state law to eliminate this pyramid transaction. This has been declared constitutional in the case of real estate brokers. The securities industry is

also a commission industry potentially subject to the pyramid effect of the B&O tax's typical application.

SUMMARY:

In the case of the sale of stock or securities, the B&O tax is applied to the retained commission of independent agents rather than the gross dollar amount handled.

SUMMARY OF PROPOSED FINANCIAL INSTITUTIONS & INSURANCE AMENDMENT:

The amendment prevents the application of the surtax as an unintended result of moving this service industry to a section that deals primarily with commodities. The rate would remain at 1.5 percent as applied to other services.

EFFECT OF PROPOSED SUBSTITUTE:

The bill is redrafted to prevent the application of the surtax which inadvertently raised the tax rate. An effective date of July 1, 1993 is added.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR (Financial Institutions & Insurance):

It was agreed that the effect would be to increase sales by Washington based security dealers. Further, it would create parity with similar commission sharing industries such as real estate.

TESTIMONY AGAINST (Financial Institutions & Insurance): None

TESTIFIED (Financial Institutions & Insurance): PRO: David C. Carlson, Laney & Company; Bruce Ellis, IAFP; Loretta Elderkin, Pacific West Securities; Richard C. Luther, Institute of Certified Financial Planners; Walt Corneille, IAFP

TESTIMONY FOR (Ways & Means):

The double taxation results in a high effective tax rate and causes Washington broker-dealers to be at a competitive disadvantage with out-of-state brokerages. In some cases, 100 percent of the commission is passed on, yet the brokerage must pay a B&O tax on the whole commission. Unlike insurance agents, the commission must be paid to the broker before it is split.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): PRO: Walt Corneille, International Association of Financial Planners; David Carlson, Laney & Company; Loretta Elderkin, Pacific West Securities; Mary Ann Allen, Abacus Securities; Dick Knight, Investment Management

& Resources, Inc.; Bruce Ellis, Washington Association of
Financial Planners