

SENATE BILL REPORT

SB 5164

AS PASSED SENATE, MARCH 15, 1993

Brief Description: Exempting nonprofit organizations providing credit services from the business and occupation tax.

SPONSORS: Senators Wojahn and Talmadge

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Bauer, Bluechel, Cantu, Hargrove, Hochstatter, Jesernig, McDonald, Moyer, Niemi, Quigley, L. Smith, Snyder, Sutherland, Talmadge, West, Williams, and Wojahn.

Staff: Terry Wilson (786-7715)

Hearing Dates: March 3, 1993; March 8, 1993

BACKGROUND:

Nonprofit organizations are subject to the business and occupation (B&O) tax and must collect sales taxes on their sales unless specifically exempted by statute. Exemption from federal income tax does not automatically provide an exemption for state taxes. Most nonprofit organizations pay B&O tax at the services rate of 1.5 percent.

Income from bazaars and rummage sales conducted by nonprofit organizations is exempt from B&O tax if the sales are conducted no more than twice each year, each sale lasts no more than two days, and the income from each sale does not exceed \$1,000. Sales tax does not apply because the sales are infrequent enough to be exempt under the sales tax exemption for casual and isolated sales.

Also exempt from B&O tax is income from fund-raising auctions conducted by nonprofit organizations exempt from federal income tax if the auction is held no more than once a year for a period no greater than two days.

In addition, bona fide initiation fees, dues, contributions, donations, and tuition fees may be deducted from income in computing tax liability unless the dues are in exchange for any significant amount of goods or services or the dues are graduated upon the amount of goods or services rendered.

SUMMARY:

Exempted from B&O tax is income received by nonprofit organizations from:

- (1) Presenting individual and community credit education programs, including credit and debt counseling;
- (2) Obtaining creditor cooperation in allowing a debtor to repay debt in an orderly manner;
- (3) Establishing and administering negotiated repayment programs for debtors; and
- (4) Providing advice or assistance to a debtor with regard to these activities.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: The bill is to be applied retroactively.

TESTIMONY FOR:

The Department of Revenue changed its position on the taxability of these contributions. Consumer Credit Counseling Service (CCCS) teaches financial management skills and educates clients. The pay structure is voluntary. Each creditor establishes its own payment. Services are provided regardless of whether a contribution is made. CCCS does not make a profit. CCCS keeps debtors out of bankruptcy.

TESTIMONY AGAINST:

Genuine donations are not taxed. This sets a precedent for other nonprofits with contributions based on service.

TESTIFIED: Laura Johnson, Consumer Credit Counseling of Seattle (pro); Merry Ames, Consumer Credit Counseling of Yakima (pro); Susie Tracy, WA State Financial Services Assn (pro); Bob Campbell, Consumer Credit Counseling of Tacoma (pro); Gary Gardner, WA Credit Union League (pro); Russ Brubaker, Department of Revenue (con)