

SENATE BILL REPORT

SHB 2324

As of March 10, 1998

Title: An act relating to a legal presumption in favor of persons disputing a tax obligation.

Brief Description: Establishing a legal presumption in favor of persons disputing tax obligations.

Sponsors: House Committee on Finance (originally sponsored by Representatives B. Thomas, Lambert and Dyer).

Brief History:

Committee Activity: Ways & Means: 3/10/98.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Terry Wilson (786-7433)

Background: The courts have developed several principles for interpretation of statutes in general and tax statutes in particular. Courts do not construe or interpret a statute when its language is plain. Statutory words are given their ordinary meaning, unless a particular definition is provided in statute. A statute must be construed to avoid strained results or absurd consequences. Laws imposing taxes must be strictly construed, though fairly and in keeping with the ordinary meaning of the language used. If there is any doubt as to the meaning of a taxing statute, it must be construed against the taxing power in favor of the citizen. Tax exemptions are construed narrowly, and the burden of establishing an exemption falls on the taxpayer.

Summary of Bill: General rules are provided for the interpretation and application of taxes. Persons and activities are not subject to tax unless a tax has been clearly and expressly imposed by law. A governmental entity claiming a tax obligation exists has the burden of proving that obligation. A tax must not be enlarged by construction or interpretation.

A governmental entity seeking to collect a disputed tax obligation must make available to the taxpayer upon request all records, documents, and facts necessary to determine the historical background, intent, interpretation, or implementation of the law imposing the tax.

A person disputing a tax obligation has a similar duty to provide property, documents, and facts necessary for determination of taxable status.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Joe's Barber Shop has no army to use against government. Big business can afford to litigate. This is for small business. We need to tighten the tax code up and make clear what is taxed. Government has the home court advantage. We need to give taxpayers a chance. Counties should give property taxpayers the information which they used to determine property values. The fiscal note shows the extent of the problem. It shows taxes that are being paid that shouldn't. This bill resulted from administrative assessments on businesses that could get no information on why the assessments were imposed.

Testimony Against: This bill would create doubt and uncertainty about the law and invite costly litigation. This makes nontaxation the rule and taxation the exception. This is the opposite of current law. Most tax laws are broad and general in their application. Exemptions are specific. The first order of business should be to bring some order to the tax laws themselves. It is the larger business that would benefit because it is them for whom the law is less clear.

Testified: PRO: Representative Brian Thomas, original prime sponsor; Jim King, Washington Drywall Association; CON: Ron Rosenblum, AWC.