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HOUSE BILL 2324

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State of Washington

55th Legislature

1998 Regular Session

By Representatives B. Thomas, Lambert and Dyer

Prefiled 1/6/98. Read first time 01/12/98. Referred to Committee on Finance.

1 AN ACT Relating to a legal presumption in favor of persons  
2 disputing an tax obligation; and adding a new chapter to Title 7 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** (1) This section is intended to establish  
5 how state and local laws, including statutes, ordinances, regulations,  
6 and rules, that impose any tax, including any fee, charge, surcharge,  
7 license, permit, or any other cost imposed on any of the following,  
8 whether public or private, should be interpreted:

9 (a) Property, real or personal, tangible or intangible;

10 (b) Income;

11 (c) Service; or

12 (d) The ownership, possession, manufacture, use, sale, purchase, or  
13 transfer of any property, real or personal, tangible or intangible,  
14 income, or service, including any goods or labor.

15 (2) Any property, real or personal, tangible or intangible, income,  
16 service, ownership, possession, manufacture, use, sale, purchase, or  
17 transfer of any property, real or personal, tangible or intangible,  
18 income, or service, including any goods or labor, located in, derived  
19 in, operated in, or occurring in Washington is to be considered not

1 subject to taxation, except that for which a tax has been clearly and  
2 expressly imposed by law. The following principles govern the  
3 construction of laws that impose such a tax:

4 (a) There is no need to construe a law when the law's language is  
5 plain;

6 (b) Laws imposing the tax must be strictly construed, though fairly  
7 and in keeping with the ordinary meaning of the language employed;

8 (c) If there is any doubt regarding the exact meaning of a law  
9 imposing the tax, the law must be construed in favor of the person who  
10 is disputing the tax obligation and against the governmental entity  
11 claiming the person has a tax obligation because nontaxation is the  
12 rule and taxation is the exception;

13 (d) The burden of proving that a valid tax obligation exists rests  
14 upon the governmental entity claiming that a tax obligation exists;

15 (e) If a governmental entity has imposed the tax, the tax must not  
16 be enlarged by construction since it is reasonable to presume that the  
17 governmental entity has stated in express terms all that it intended to  
18 tax.

19 A tax must be limited to the very terms of the law enacted. If not  
20 so limited, the tax would be enlarged beyond what the governmental  
21 entity intended to tax; and

22 (f) Property, real or personal, tangible or intangible, income,  
23 service, ownership, possession, manufacture, use, sale, purchase, or  
24 transfer of any property, real or personal, tangible or intangible,  
25 income, or service, including any goods or labor, shall not be taxed  
26 unless a governmental entity has imposed a tax by clear and explicit  
27 language.

28 (3) Upon request, governmental entities seeking to collect a  
29 disputed tax obligation shall make available to the person disputing  
30 the tax obligation all records, documents, or facts necessary for the  
31 person to determine the historical background, intent, construction,  
32 interpretation, application, or implementation of the law imposing the  
33 tax.

34 Failure to fully cooperate with the person may result in a  
35 determination that the property, income, service, ownership,  
36 possession, manufacture, use, sale, purchase, or transfer is not  
37 taxable for the current year.

38 (4) Upon request, persons who are disputing a tax obligation shall  
39 make available at reasonable times to the governmental entity claiming

1 the tax obligation exists for inspection, investigation, or examination  
2 all property, records, documents, or facts necessary for the  
3 governmental entity to determine the taxable status of the obligation  
4 in dispute.

5 Failure to fully cooperate with the governmental entity may result  
6 in a determination that the property, income, service, ownership,  
7 possession, manufacture, use, sale, purchase, or transfer is taxable  
8 for the current year.

9 NEW SECTION. **Sec. 2.** Section 1 of this act constitutes a new  
10 chapter in Title 7 RCW.

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