

2 **ESSB 5300** - H COMM AMD  
3 By Committee on Local Government

4

5 On page 13, after line 26, insert the following:

6 "NEW SECTION. **Sec. 17.** A new section is added to chapter 35.21  
7 RCW to read as follows:

8 (1) The legislature finds that companies who engage in business  
9 activities in multiple local jurisdictions are unduly burdened by  
10 double, triple, and sometimes even quadruple taxation of the same  
11 business income. The legislature further finds that this multiple  
12 taxation of the same business income by local jurisdictions is  
13 significantly impairing the ability of the state to solidify and  
14 enhance its competitive position to attract new businesses and retain  
15 existing businesses. The legislature further finds that this multiple  
16 taxation is the result of a lack of a method to fairly and equitably  
17 apportion business income to various local jurisdictions for the  
18 purpose of taxation. It is, therefore, the intent of the legislature  
19 to establish a consistent, fair, and equitable method of allocating and  
20 apportioning business income among various local jurisdictions for the  
21 purpose of taxation. This method is intended to produce an  
22 apportionment and allocation system that avoids multiple taxation of  
23 the same business income, provides taxpayers with certainty in the  
24 determination of their tax liability, and allows for fair division of  
25 gross income of businesses between and among local jurisdictions.

26 (2) The definitions in this subsection apply throughout this  
27 section unless the content clearly requires otherwise:

28 (a) "Gross receipts tax" means a tax which is imposed on or  
29 measured by the gross volume of business, in terms of gross receipts or  
30 in other terms, and in the determination of which the deductions  
31 allowed would not constitute an income tax or value added tax and which  
32 is also not, pursuant to law or custom, separately stated from the  
33 sales price.

34 (b) "Local jurisdiction" means any city, town, county, municipal  
35 district or corporation, political subdivision, Indian reservation, or  
36 federal area located in the state of Washington.

1 (3)(a) All state and federal constitutional provisions and laws  
2 pertaining to interstate commerce shall be duly applicable to  
3 intrastate commerce, including, but not limited to, apportioning or  
4 allocating gross income when a person is engaged in business both  
5 within and without a local jurisdiction, establishing nexus for  
6 purposes of exerting a local jurisdiction tax, and providing a multiple  
7 activities tax credit similar to that provided in RCW 82.04.440.

8 (b) Under no circumstances shall the total tax measure apportioned  
9 or allocated to the applicable local jurisdictions exceed the total tax  
10 measure computed for the purpose of state taxation.

11 (4) The following specific guidelines shall be applied by any local  
12 jurisdiction with respect to any locally imposed gross receipts tax:

13 (a) For the purposes of imposing a gross receipts tax on  
14 extracting, manufacturing, or processing for hire activities, the  
15 activities shall be subject to tax in the local jurisdiction where the  
16 activities occur. If the activities occur in more than one local  
17 jurisdiction, the activities shall be consistently, equitably, and  
18 reasonably apportioned between or among those local jurisdictions.

19 (b) For the purposes of imposing a gross receipts tax on retail or  
20 wholesale sales, all sales shall be subject to tax in the local  
21 jurisdiction where the sales take place. The following provisions are  
22 to be followed in determining where a sale takes place:

23 (i) A retail or wholesale sale consisting solely of the sale of  
24 tangible personal property shall be deemed to have occurred at the  
25 retail or wholesale outlet at or from which delivery is made to the  
26 purchaser. The term retail or wholesale outlet shall not include a  
27 sales office unless purchasers regularly visit the sales office to  
28 place orders. Dock sales or other sales of tangible personal property  
29 where the purchaser takes possession of the tangible personal property  
30 shall be deemed to have occurred where the purchaser takes possession  
31 of the tangible personal property regardless of where the purchaser may  
32 ultimately transport the tangible personal property. Where a common  
33 carrier, a private carrier, or a seller's own transport is used to  
34 deliver tangible personal property, other than from a retail or  
35 wholesale outlet, the sale of tangible personal property shall be  
36 deemed to have occurred at the location where the common carrier  
37 delivers the tangible personal property to the purchaser regardless of  
38 who pays the carrier and notwithstanding any other terms of sale.

1 (ii) A retail or wholesale sale consisting essentially of the  
2 performance of professional business or professional services shall be  
3 deemed to have occurred at the place at which such services were  
4 primarily performed, except that for the performance of a tow truck  
5 service, as defined in RCW 46.55.010 the retail or wholesale sale shall  
6 be deemed to have occurred at the place of the business of the tow  
7 truck service.

8 (iii) A retail or wholesale sale consisting of the rental of  
9 tangible personal property shall be deemed to have occurred, in the  
10 case of rental involving periodic rental payments, in the primary place  
11 of use by the lessee during the period covered by each payment and, in  
12 all other cases, at the place of first use by the lessee.

13 (iv) A retail sale within the scope of RCW 82.04.050(2), and a  
14 retail sale of tangible personal property to be installed by the seller  
15 shall be deemed to have occurred at the place where the labor and  
16 services involved were primarily performed.

17 (c) For the purposes of imposing a gross receipts tax on any person  
18 rendering services as defined under RCW 82.04.290, the services shall  
19 be subject to tax in the local jurisdiction where the services were  
20 primarily performed. If the person rendering services performs  
21 substantial service activities in more than one local jurisdiction, the  
22 person shall apportion to each local jurisdiction that portion of the  
23 total gross income which is derived from services rendered in each  
24 local jurisdiction. Where apportionment cannot be accurately made by  
25 separate accounting methods, the person shall apportion to each local  
26 jurisdiction that proportion of the total gross income which is derived  
27 from services which the cost of performing the services within a local  
28 jurisdiction bears to the total cost of performing the services in all  
29 local jurisdictions.

30 (5) The following credits shall be allowed for persons performing  
31 multiple activities in multiple local jurisdictions:

32 (a) Every person engaged in manufacturing activities shall be  
33 allowed a credit against the measure of tax of any manufacturing gross  
34 receipts tax imposed by a local jurisdiction for any portion of the  
35 measure of tax which has been previously subjected to a local  
36 jurisdiction gross receipts tax on either extracting or manufacturing  
37 activities.

38 (b) Every person engaged in making retail or wholesale sales shall  
39 be allowed a credit against the measure of tax of any retailing or

1 wholesaling gross receipts tax imposed by a local jurisdiction for any  
2 portion of the measure of tax which has been previously subjected to a  
3 local jurisdiction gross receipts tax on either extracting or  
4 previously performed manufacturing activities."

5 Correct the title.

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