

SENATE BILL REPORT

HB 1361

As Reported By Senate Committee On:
Ways & Means, April 2, 2001

Title: An act relating to simplifying excise tax application and administration.

Brief Description: Simplifying excise tax application and administration.

Sponsors: By Representatives Jackley, Cairnes and Dunshee; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 3/22/01, 4/2/01 [DPA].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Brown, Chair; Constantine, Vice Chair; Fairley, Vice Chair; Fraser, Hewitt, Honeyford, Kline, Kohl-Welles, Long, Parlette, Rasmussen, Regala, Roach, Rossi, Sheahan, B. Sheldon, Snyder, Spanel, Thibaudeau and Winsley.

Staff: Terry Wilson (786-7433)

Background: Business and Occupation Tax: Under the Business and Occupation (B&O) tax, persons who wish to receive the B&O environmental remediation tax classification (at a tax rate of 0.484 percent) must submit certification to the department with a description of the proposed environmental remedial actions to be taken as well as certain identification information. Persons who receive income from royalties are subject to a B&O tax rate of 0.484 percent. Royalties are defined as compensation for the use of intangible property, such as copyrights or licenses, but do not include compensation for any natural resource.

Retail Sales and Use Taxes: Passenger vehicles to be used for ride-sharing purposes are exempt from retail sales and use taxes if the vehicles are exempt from motor vehicle excise taxes for 36 consecutive months from the time of application. If the vehicle is used for ride-sharing purposes for less than the 36 consecutive months, the owner is liable for retail sales and/or use taxes.

Regional transit authorities are authorized to enter into sale and leaseback agreements in order to provide flexibility in the acquisition and financing of equipment or facilities. A sale and leaseback agreement is an agreement in which property is sold to a buyer and then leased from the new owner to the previous owner. An exemption is provided from the use tax for the use of tangible personal property, such as vehicular equipment or facilities, if the seller or lessee under an authorized sale or leaseback agreement uses such property. A use tax exemption is also provided to a lessee for the purchase amount paid under an option to purchase at the end of a lease term, as long as the lessee owes no back retail sales and use taxes.

A change to a local retail sales and use tax rate may not occur sooner than 75 days after the department is notified by the local jurisdiction and may only occur on the first of the month in January, April, July, or October.

Tax Status of Solid Waste Businesses: The state public utility tax is imposed on the gross receipts of specific public service businesses, including those in the businesses of light and power, gas distribution, and certain other activities. The tax on other public service businesses is 1.9 percent. Some solid waste disposal businesses pay the public utility tax, but most pay the B&O tax under the service classification at 1.5 percent.

Enhanced Food Fish Tax: A tax is imposed on the first possession of an enhanced food fish in the state by an owner.

Administration: The director of the department is authorized to issue written determinations to clarify interpretation of excise tax statutes. Such determinations may serve as precedents and thus apply to future taxable activity. The department must index determinations by subject matter and must publish determinations and the corresponding index.

For the purposes of collecting and remitting sales and use taxes, the department has developed and provided technology that allows persons to calculate the appropriate amount of tax liability. Persons who use the technology properly are held harmless from any calculation errors that occur.

B&O Jobs Tax Credits: A B&O tax credit for job creation is authorized for manufacturing, research and development, and computer service businesses located in rural counties if they create employment of at least 15 percent above the prior year. The credit is not available to a business that receives a sales tax deferral for certain manufacturing, research and development activities; however, the deferral was repealed in 1995.

The department is required to keep a running total of B&O jobs tax credits allowed for a year. The department must disallow any credit that would cause the total impact to exceed \$7.5 million for any fiscal year. Businesses may carry disallowed credits over to the next fiscal year, if the tabulation does not exceed the \$7.5 million for the next fiscal year at the time the credit is claimed. Credits may not be used against taxes that have not yet been paid.

Upon receipt of a credit under the B&O jobs tax credit, a recipient is required to submit a report to the department by December 31 of each year. The report is to provide the department with information to determine whether the recipient is meeting the requirements of the chapter. If the department deems the report to be inadequate, it may require the recipient to pay taxes for which the credit was claimed.

Timber Excise Tax: Timber owners pay a 5 percent timber excise tax on the value of their timber when they cut it based on timber stumpage values. Stumpage is the value of timber as it stands uncut in the woods. The Department of Revenue establishes timber stumpage values semi-annually. The new values may go into effect not less than 60 days after the Department of Revenue notifies the Legislature.

Until the early 1990s, the department used publicly-owned timber sales as comparable sales for computing stumpage values. Since then, the number of public sales has declined

significantly. In 1994, legislation was adopted that required purchasers of more than 200,000 board feet of privately owned timber to report transaction details to the Department of Revenue. Purchasers of privately-owned timber who failed to report were liable for a penalty of \$250 for each failure. The original legislation expired in 1997 and was extended to July 1, 2000.

Hotel/Motel Taxes: Counties or cities may levy hotel and motel taxes on lodging services for purposes relating to the promotion of tourism. King County levies a separate hotel and motel tax to fund a convention and trade center. Both these hotel and motel taxes are credited against the state retail sales tax.

Summary of Amended Bill: Definitions: The definition of the Internal Revenue Code is updated to mean the U.S. Internal Revenue Code of 1986, as amended as of January 1, 2001, for purposes of probate and trust law and the estate and transfer tax.

Business and Occupation Tax: Upon request, the department may provide copies of certifications made to the department to receive the B&O environmental remediation tax classification. The definition of royalties is updated to exclude licensing of canned software to the end user.

Retail Sales and Use Taxes: The exemption for ride-sharing vehicles is allowed if the vehicles are used as ride-sharing vehicles for 36 consecutive months from the date of purchase.

The use tax exemption provided to a lessee under an option to purchase at the end of a lease term is clarified to apply to the use of tangible personal property under an exercise of the option.

A change in a local retail sales and use tax rate that is a credit against the state retail sales and use tax may take effect no sooner than 30 days after notification to the department and only on the first day of the month.

Tax Status of Solid Waste Businesses: The business of solid waste collection, transportation, or disposal is subject to the B&O tax under the service classification at a rate of 1.5 percent.

Enhanced Food Fish Tax: The tax on enhanced food fish is clarified to apply to the first possession in Washington by an owner after the fish has been landed.

Administration: The department is required to publish determinations but not a corresponding index. Persons are held harmless from any calculation errors that occur specifically using department-provided geographic information system technology.

B&O Jobs Tax Credit: The obsolete reference to a sales tax deferral law in the B&O jobs tax credit law is deleted. The section that limits allowable B&O jobs tax credits to the \$7.5 million for a fiscal year is clarified, providing that any credit disallowed for a given year may be carried over to the next year to the extent that the cap for the ensuing year is not exceeded. The credit may be used against any B&O tax due and may be carried over until used. However, no refund may be made for a credit.

The reporting deadline for a business that receives a B&O jobs tax credit is extended to January 31 of the following year. In addition, the recipient is now required to keep records, such as payroll records and employment security reports, to allow the department to verify eligibility.

Timber Excise Tax: The reporting requirement for private timber sale is reestablished until July 1, 2004. The timber stumpage values may go into effect 30 days after the Legislature is notified.

Hotel/Motel Taxes: Cross references are added to the RCW chapters under hotel/motel taxes to refer to the amendments made regarding the timing for credits against the state sales and use taxes and regarding the "hold harmless" provision for the use of department-provided geographic information system technology.

Amended Bill Compared to Original Bill: The amendment corrects an erroneous citation.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2001.

Testimony For: This is a housekeeping bill which clarifies a provisions in the excise tax code.

Testimony Against: None.

Testified: PRO: Representative Jackley, prime sponsor; Tim Sekerak, DOR.