
HOUSE BILL 1854

State of Washington

57th Legislature

2001 Regular Session

By Representatives Cairnes, Kessler, Mulliken, Morris, Van Luven, Grant, Carrell and Linville

Read first time 02/06/2001. Referred to Committee on Finance.

1 AN ACT Relating to municipal tax fairness; adding a new chapter to
2 Title 35 RCW; repealing RCW 35.21.706, 35.21.710, and 35.21.711; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Persons engaging in business in multiple local jurisdictions
7 face inconsistent, complicated, and burdensome systems of local gross
8 receipts taxation;

9 (b) In some instances, the same gross income may be taxed by more
10 than one local jurisdiction resulting in unacceptable double taxation;
11 and

12 (c) While cities need flexibility and choices in the method of
13 taxation they employ to support their public services, that flexibility
14 and choice must not inhibit a person's right to expect predictability
15 and ease of administration from a gross receipts tax system that relies
16 so heavily on voluntary compliance.

17 (2) It is the intent of the legislature to produce a system of
18 gross receipts taxation by cities that:

- 1 (a) Strives for uniform and consistent treatment of taxpayers
2 through the creation of a model ordinance that reflects the basic
3 framework of the state system of gross receipts;
4 (b) Prevents multiple taxation of the same gross income;
5 (c) Provides taxpayers with certainty in the determination of their
6 gross receipts tax liability; and
7 (d) Allows for fair division of gross income of businesses between
8 and among local jurisdictions.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires otherwise.

11 (1) "Business" has the same meaning as provided in RCW 82.04.140.

12 (2) "City" means a first class city as defined in RCW 35.01.010, a
13 second class city as defined in RCW 35.01.020, or a town as defined in
14 RCW 35.01.040.

15 (3) "Engaging in business" has the same meaning as provided in RCW
16 82.04.150.

17 (4) "Gross income" means the gross income of the business as
18 defined in RCW 82.04.080.

19 (5) "Gross receipts tax" means a tax that is imposed on or measured
20 by the gross volume of business, in terms of gross income or in other
21 terms, and in the determination of which the deductions allowed would
22 not constitute an income tax or value added tax and which is also not,
23 pursuant to law or custom, separately stated from the sales price.

24 (6) "Local jurisdiction" means any city, town, county, municipal
25 district or corporation, political subdivision, Indian reservation, or
26 federal area located in the state of Washington.

27 (7) "Tax year" means either the calendar year, or if given the
28 permission of the city, the taxpayer's fiscal year may be used in lieu
29 of the calendar year.

30 NEW SECTION. **Sec. 3.** (1) A city may levy and collect from every
31 person a tax for the act or privilege of engaging in business activity
32 within the geographical boundaries of the city. The tax shall be
33 measured by the application of rates against the gross income of the
34 business.

35 (2) The taxes authorized under this section shall be imposed at a
36 single uniform rate upon all persons engaging in the same business
37 activity.

1 (3) If a city levies the tax under subsection (1) of this section,
2 it may not impose any other tax or fee for the privilege of engaging in
3 business upon the same business activity. However, this subsection is
4 not intended to limit a city's ability to impose fees or licenses on a
5 business for strictly regulatory purposes.

6 (4) In levying the tax authorized under this section, all state and
7 federal constitutional provisions and laws pertaining to the taxation
8 of interstate commerce shall be duly applicable to the taxation of
9 intrastate commerce including, but not limited to, apportioning or
10 allocating gross income when a person is engaged in business both
11 within and without a local jurisdiction, establishing nexus for
12 purposes of determining the application of a local jurisdiction's
13 taxes, and providing a multiple activities tax credit similar to that
14 provided in RCW 82.04.440.

15 NEW SECTION. **Sec. 4.** (1) Subject to the limitations contained in
16 this section, a city imposing a tax authorized under section 3 of this
17 act has the sole authority to set the rate of tax on any particular
18 business activity.

19 (2) Unless otherwise specifically provided for by law, a city may
20 not impose a tax under section 3 of this act at a rate that exceeds
21 two-tenths of one percent.

22 (3) If a city imposed a tax on gross receipts allowed in section 3
23 of this act prior to January 1, 2002, at a rate in excess of those
24 allowed in subsection (2) of this section, it may continue to apply
25 those same rates after the effective date of this act. However, any
26 increase in a rate after December 31, 2001, is subject to the
27 provisions of subsection (6) of this section.

28 (4) A city first imposing the gross receipts tax provided for in
29 section 3 of this act may do so only if:

30 (a) The gross receipts tax is authorized by a proposition approved
31 by a majority of the qualified voters of the city at a general election
32 held within the city or at a special election called by the city for
33 the purpose of submitting the proposition to the voters; and

34 (b) The initial tax rate does not exceed thirty percent of the
35 limits set forth in subsection (2) of this section.

36 (5) A city may impose rates in excess of those provided for in
37 subsection (2) of this section only upon the approval of a majority of
38 the qualified voters of the city at a general election held within the

1 city or at a special election called by the city for the purpose of
2 submitting the proposition to the voters.

3 (6) A city may increase the rate of a tax authorized under section
4 3 of this act only upon the approval of a majority of the qualified
5 voters of the city at a general election held within the city or at a
6 special election called by the city for the purpose of submitting the
7 proposition to the voters. In addition, the rate of a tax may not be
8 increased by more than ten percent of the rate in effect as of the date
9 of the submittal of the proposal to the people.

10 NEW SECTION. **Sec. 5.** (1) The director of the department of
11 revenue shall appoint a special committee consisting of tax
12 administrators from a representative sampling of cities that currently
13 apply a gross receipts tax under section 3 of this act. The director
14 shall ensure that the members of the special committee are balanced
15 between small, medium, and large cities and shall seek nominations for
16 the special committee from the largest statewide association
17 representing cities. A representative of the cities shall serve as
18 chair of the special committee.

19 (2) The special committee established in subsection (1) of this
20 section shall, by September 1, 2001, develop a model resolution and
21 ordinance regarding the prospective implementation of local gross
22 receipts taxes. To the extent possible, the special committee shall
23 seek the advice of businesses affected by gross receipts taxes during
24 the development of the model resolution and ordinance.

25 (3) To ensure ease of administration and compliance, the special
26 committee created under subsection (1) of this section shall, with
27 respect to definitions and classifications, draft a model ordinance and
28 any updates that are substantially similar to those provided for the
29 state's gross receipts taxes. However, the model ordinance and any
30 updates may provide for deviations from the state's gross receipts tax
31 provisions, but shall only do so with regard to deductions, credits, or
32 exemptions.

33 (4) Upon completion of a model resolution and ordinance by the
34 special committee, the department of revenue shall, by rule, propose
35 the formal adoption of the model ordinance in conformance with chapter
36 34.05 RCW.

37 (5) Each year following the initial adoption of the model
38 ordinance, the department of revenue shall reconvene a special

1 committee using the same criteria as provided in subsection (1) of this
2 section. The special committee shall review any changes to the state's
3 gross receipts taxes and update the model ordinance to:

4 (a) Incorporate the changes made to the state's gross receipts
5 taxes into the model ordinance;

6 (b) Amend the model ordinance to address, in a different manner,
7 the substance of the changes made to the state's gross receipts taxes;

8 (c) Reject the changes made to the state's gross receipts taxes
9 related to deductions, credits, or exemptions; or

10 (d) Perform a combination of the actions provided for in (a), (b),
11 or (c) of this subsection.

12 (6) By January 1, 2002, any city levying a gross receipts tax under
13 section 3 of this act must either:

14 (a) Adopt the model resolution and ordinance and all updates
15 adopted under subsection (5) of this section; or

16 (b) Adopt and follow all statutory and regulatory provisions in
17 existence for the state's gross receipts taxes.

18 (7) A city taking either of the actions allowed in subsection (6)
19 of this section may on January 1st of any subsequent year choose the
20 alternative action allowed in subsection (6) of this section.

21 NEW SECTION. **Sec. 6.** For the purposes of applying penalties or
22 interest upon a taxpayer subject to the tax in section 3 of this act or
23 granting a waiver or cancellation of such penalties or interest, a city
24 must apply penalties and interest and grant waivers and cancellations
25 in the same manner as provided to the department of revenue in chapter
26 82.32 RCW.

27 NEW SECTION. **Sec. 7.** (1) For the purposes of determining and
28 administering an assessment or correction of an assessment for
29 additional gross receipts taxes, penalties or interest due upon a
30 taxpayer subject to the tax in section 3 of this act, a city must
31 calculate and administer the assessment or correction of an assessment
32 in the same manner as provided to the department of revenue in chapter
33 82.32 RCW.

34 (2) For the purposes of determining and administering any refund or
35 credit for gross receipts taxes, penalties, or interest for a taxpayer
36 subject to the tax in section 3 of this act, a city must calculate and

1 administer the refund or credit in the same manner as provided to the
2 department of revenue in chapter 82.32 RCW.

3 NEW SECTION. **Sec. 8.** (1) For the purposes of apportioning or
4 allocating gross income for gross receipts taxes authorized under
5 section 3 of this act, the total tax measure apportioned or allocated
6 to applicable local jurisdictions shall not exceed the total tax
7 measure computed for the purpose of state gross receipts taxation.

8 (2) The following specific guidelines shall be applied by any city
9 that imposes a gross receipts tax under section 3 of this act:

10 (a) For the purposes of imposing a gross receipts tax on
11 extracting, manufacturing, or processing for hire activities, the
12 activities are subject to tax in the local jurisdiction where the
13 activities occur. If the activities occur in more than one local
14 jurisdiction, the activities are consistently, equitably, and
15 reasonably apportioned between or among those local jurisdictions even
16 though the taxpayer may not have an office or other permanent place of
17 business in each jurisdiction.

18 (b) For the purposes of imposing a gross receipts tax on retail or
19 wholesale sales, all sales are subject to tax in the local jurisdiction
20 where the sales occur. The provisions of RCW 82.14.020 are to be
21 followed in determining where a sale occurs.

22 (c) For the purposes of imposing a gross receipts tax on any person
23 rendering services, other than services defined as a retail sale under
24 RCW 82.04.050, the services are subject to tax in the local
25 jurisdiction where the services were primarily performed. If the
26 person rendering services performs substantial service activities in
27 more than one local jurisdiction, the person shall apportion to each
28 local jurisdiction that portion of the total gross income that is
29 derived from services rendered in each local jurisdiction. Where
30 apportionment cannot be accurately made by separate accounting methods,
31 the person shall apportion to each local jurisdiction that proportion
32 of the total gross income which is derived from services which the cost
33 of performing the services within a local jurisdiction bears to the
34 total cost of performing the services in all local jurisdictions. The
35 city shall apportion the gross receipts derived from services even
36 though the taxpayer may not have an office or other permanent place of
37 business in each jurisdiction where it performs the services.

1 (3) The following credits are allowed for persons performing
2 multiple activities in multiple local jurisdictions:

3 (a) Every person engaged in manufacturing activities is allowed a
4 credit against the measure of tax of any manufacturing gross receipts
5 tax imposed by a local jurisdiction for any portion of the measure of
6 tax which has been previously subjected to a local jurisdiction gross
7 receipts tax on either extracting or previously performed manufacturing
8 activities.

9 (b) Every person engaged in making retail or wholesale sales is
10 allowed a credit against the measure of tax of any retailing or
11 wholesaling gross receipts tax imposed by a local jurisdiction for any
12 portion of the measure of tax which has been previously subjected to a
13 local jurisdiction gross receipts tax on either extracting or
14 manufacturing activities.

15 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
16 repealed:

17 (1) RCW 35.21.706 (Imposition or increase of business and
18 occupation tax--Referendum procedure required--Exclusive procedure) and
19 1983 c 99 s 6;

20 (2) RCW 35.21.710 (License fees or taxes on certain business
21 activities--Uniform rate required--Maximum rate established) and 1983
22 2nd ex.s. c 3 s 33, 1983 c 99 s 7, 1982 1st ex.s. c 49 s 7, 1981 c 144
23 s 6, & 1972 ex.s. c 134 s 6; and

24 (3) RCW 35.21.711 (License fees or taxes on certain business
25 activities--Excess rates authorized by voters) and 1982 1st ex.s. c 49
26 s 8.

27 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act constitute
28 a new chapter in Title 35 RCW.

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