

HOUSE BILL REPORT

ESB 5517

As Reported by House Committee On:

Finance

Title: An act relating to clarifying the apportionment of business and occupation taxes on certain businesses conducted both within and outside the state.

Brief Description: Clarifying the apportionment of business and occupation taxes on travel agent or tour operator businesses conducted both within and outside the state.

Sponsors: Senators B. Sheldon, Schmidt, Kohl-Welles, Oke, Poulsen, West and Rasmussen.

Brief History:

Committee Activity:

Finance: 3/27/03, 4/4/03 [DPA].

<p style="text-align: center;">Brief Summary of Engrossed Bill (As Amended by House Committee)</p> <ul style="list-style-type: none">· Provides business and occupation tax apportionment of gross income for travel agents and tour operators.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. Signed by 9 members: Representatives Gombosky, Chair; McIntire, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Staff: Bob Longman (786-7139).

Background:

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Different tax rates apply to six separate categories of business activity. The rate for travel agents and tour operators is 0.275 percent. Before 1996, travel agents and tour operators were taxed at the general rate for most service business which is 1.5 percent.

The B&O tax is imposed on the gross receipts from all business activities conducted within the state. If a taxpayer is subject to the 1.5 percent service rate and has a place of business outside the state that contributes to the performance of a service, the taxpayer must apportion to this state the portion of gross income derived from services rendered in this state. If it is not practical to use separate accounting methods to determine the amount of services rendered in this state, the taxpayer must apportion income to this state in proportion to the cost of doing business within this state relative to the total cost of doing business both within and without this state. These apportionment provisions do not apply to travel agents and tour operators. Travel agents and tour operators must pay tax on all services rendered in this state.

Summary of Amended Bill:

For B&O tax purposes, a travel agent or tour operator doing business both within and without Washington is required to apportion gross receipts based on a three-factor apportionment formula. The three factors are property, payroll, and sales. The factors must be calculated in a manner consistent with apportionment factors in the Uniform Division of Income for Tax Purposes Act, a model law developed primarily for use with net income taxes.

If this method of apportionment does not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition or the department may require the use of an alternative apportionment method, if reasonable, such as separate accounting, the exclusion of any one or more of the factors, or the inclusion of one or more additional factors.

Amended Bill Compared to Original Bill:

The substitute requires the department to work with affected industries to determine the appropriate apportionment methods.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Travel and tour businesses that operate in more than one state should be able to apportion their income. It might be necessary to use different methodology for travel agents and tour businesses; the proposed amendment allows this.

Testimony Against: None.

Testified: (In support) Senator B. Sheldon, prime sponsor; Joe Daniels, Holland America; and Jerry Farley, Washington State Coalition on Travel.

(Clarification) Julie Sexton, Department of Revenue.