

SENATE BILL REPORT

SHB 1328

As Reported By Senate Committee On:
Ways & Means, March 1, 2004

Title: An act relating to the tax treatment of boarding homes.

Brief Description: Modifying the tax treatment of boarding homes.

Sponsors: House Committee on Finance (originally sponsored by Representatives Fromhold, Cairnes, Sullivan, Veloria, Skinner, Alexander, Morris, Moeller, Benson, Darneille, Linville, Jarrett, Miloscia, Clibborn, Cox, Pettigrew, Clements, McCoy, Campbell, Romero, O'Brien, Talcott, Ahern, Schindler, Hinkle, Hunt, Rockefeller, Wallace, Quall, Conway, Flannigan, Chase, Blake, G. Simpson, Upthegrove, Kenney, Newhouse, Buck, Woods and Bush).

Brief History:

Committee Activity: Ways & Means: 3/1/04 [DP].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Zarelli, Chair; Hewitt, Vice Chair; Parlette, Vice Chair; Carlson, Doumit, Fraser, Hale, Honeyford, Johnson, Pflug, Prentice, Rasmussen, Regala, Roach, Sheahan, B. Sheldon and Winsley.

Staff: Terry Wilson (786-7433)

Background: A licensed boarding home is a facility that provides board and domiciliary care to seven or more residents. Domiciliary care includes assistance with the activities of daily living and assuming general responsibility for the safety and well-being of the resident. Some boarding homes offer limited nursing services and others specialize in serving people with mental health problems, developmental disabilities, or dementia.

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. The tax is imposed on the gross receipts from all business activities conducted within the state. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity. Businesses that are involved in more than one kind of business activity are required to segregate their income and report under the appropriate tax classification based on the nature of the specific activity.

The income derived from the rental of real estate is exempt from the B&O tax. Until recently the Department of Revenue allowed boarding homes with sufficient supporting documentation to separate the charges for renting rooms from the charges for personal and professional services and meals. The department has now concluded that the primary purpose of assisted living facilities is to provide daily living assistance and care to the aged not the lease of real

estate. This means that boarding homes can no longer separate their charges and must pay B&O tax at the service rate (1.5 percent) on their entire fee. This makes the tax treatment of boarding homes the same as that for nursing homes.

There are some B&O deductions and exemptions that apply in this area. Nonprofit health and social welfare organizations are allowed a deduction from the B&O tax for payments from governmental entities for health or social services. Adult family homes are exempt from B&O taxes.

Summary of Bill: Licensed boarding homes providing room and domiciliary care to residents pay B&O taxes at a rate of 0.275 percent. Amounts received from the Department of Social and Health Services for adult residential care, enhanced adult residential care, or assisted living services for medicaid recipients are deducted from income before B&O taxes are determined.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2004.

Testimony For: There is a continuum of care. Nursing homes are taxed. Boarding homes paid no tax if they only provided rooms. Boarding homes that provide some services are in between. The Department of Revenue allowed segregation. The nursing homes sued for the same treatment but the court held that nursing homes were providing services and were not engaged in the rental of real estate. After this, DOR changed its policy of allowing boarding homes with sufficient documentation to deduct the rental portion from income. This is a fair compromise with the department. This tax would be devastating to many small businesses providing living assistance. This is a fair approach to maintaining existing revenues without imposing a burden on business.

Testimony Against: None.

Testified: PRO: Lauri St. Ours, Nov. ALFA; Breddan Williams, WA Health Care Assoc.; Julie Sexton, Department of Revenue.