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**ENGROSSED SUBSTITUTE SENATE BILL 6011**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senator Rossi)

READ FIRST TIME 03/10/03.

1       AN ACT Relating to the business and occupation tax treatment of  
2 staffing businesses; amending RCW 82.04.290; and adding a new section  
3 to chapter 82.04 RCW.

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

5       NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
6 to read as follows:

7       (1) Upon every person engaging in this state in the business of  
8 providing staffing services that would otherwise be subject to tax  
9 under RCW 82.04.290(2); as to such persons the amount of tax with  
10 respect to such business shall be equal to the gross income of the  
11 business, multiplied by the rate of .484 percent. If the staffing  
12 activities are conducted both within and without this state, the amount  
13 of tax on such person shall be equal to the apportioned gross income of  
14 the business multiplied by the rate of .484 percent.

15       (2) The apportioned gross income shall be calculated by multiplying  
16 the apportionable income by a fraction, the numerator of which is the  
17 sum of the property factor, if any, the payroll factor, if any, and the  
18 sales factor, if any, and the denominator of which is three reduced by  
19 the number of factors that have a denominator of zero. The

1 apportionment factors shall be calculated according to rules adopted by  
2 the department consistent with the principles and concepts contained in  
3 chapter 82.56 RCW but are not required to be identical to those  
4 contained in chapter 82.56 RCW. If the provisions of this section do  
5 not fairly represent the extent of the taxpayer's business activity in  
6 this state, the taxpayer may petition for or the department may require  
7 the use of an alternative apportionment method, if reasonable, such as  
8 separate accounting, the exclusion of any one or more of the factors,  
9 or the inclusion of one or more additional factors.

10 (3) The definitions in this subsection apply to this section.

11 (a) "Apportionable income" means the gross income of the taxpayer,  
12 which includes but is not limited to all amounts received for providing  
13 the temporary workers, subject to tax under subsection (1) of this  
14 section, less the exemptions and deductions allowable under this  
15 chapter.

16 (b) "Staffing services" means an arrangement in which the taxpayer  
17 recruits and hires employees from the labor market and assigns them on  
18 a temporary basis to perform services for another to support or  
19 supplement the customer's work force, or to provide assistance in  
20 special work situations such as employee absences, skill shortages, and  
21 seasonal workloads, or to perform special assignments or projects, all  
22 under the direction and supervision of the customer. "Staffing  
23 services" does not include employee leasing or employee placement  
24 services.

25 **Sec. 2.** RCW 82.04.290 and 2001 1st sp.s. c 9 s 6 are each amended  
26 to read as follows:

27 (1) Upon every person engaging within this state in the business of  
28 providing international investment management services, as to such  
29 persons, the amount of tax with respect to such business shall be equal  
30 to the gross income or gross proceeds of sales of the business  
31 multiplied by a rate of 0.275 percent.

32 (2) Upon every person engaging within this state in any business  
33 activity other than or in addition to those enumerated in RCW  
34 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,  
35 82.04.298, 82.04.2905, 82.04.280, 82.04.2907, (~~and~~) 82.04.272,  
36 section 1 of this act, and subsection (1) of this section; as to such

1 persons the amount of tax on account of such activities shall be equal  
2 to the gross income of the business multiplied by the rate of 1.5  
3 percent.

4 This section includes, among others, and without limiting the scope  
5 hereof (whether or not title to materials used in the performance of  
6 such business passes to another by accession, confusion or other than  
7 by outright sale), persons engaged in the business of rendering any  
8 type of service which does not constitute a "sale at retail" or a "sale  
9 at wholesale." The value of advertising, demonstration, and  
10 promotional supplies and materials furnished to an agent by his  
11 principal or supplier to be used for informational, educational and  
12 promotional purposes shall not be considered a part of the agent's  
13 remuneration or commission and shall not be subject to taxation under  
14 this section.

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