
HOUSE BILL 3217

State of Washington 61st Legislature 2010 1st Special Session

By Representatives Campbell and Lias

Read first time 04/02/10. Referred to Committee on Finance.

1 AN ACT Relating to a Washington small business taxpayer bill of
2 rights; amending RCW 82.32.105; and adding a new chapter to Title 82
3 RCW.

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

5 NEW SECTION. **Sec. 1.** This chapter shall be known and cited as the
6 "Washington small business taxpayer bill of rights."

7 NEW SECTION. **Sec. 2.** (1) The legislature finds that taxes are one
8 of the most sensitive points of contact between citizens and their
9 government, and that there is a delicate balance between revenue
10 collection and taxpayers' rights and responsibilities.

11 (2) The legislature further finds that the Washington tax system is
12 based largely on voluntary compliance. The legislature also finds that
13 compliance is best achieved when: (a) The department provides accurate
14 tax information, instructions, and procedures to assist taxpayers to
15 voluntarily comply with applicable state excise tax laws; and (b)
16 taxpayers are not penalized for inadvertent mistakes.

17 (3) The legislature further finds that our excise tax system is

1 complicated and as a consequence, small businesses, often lacking
2 sophisticated tax advice, are especially at risk of making
3 unintentional mistakes with respect to their state tax obligations.

4 (4) The legislature intends to provide a small business taxpayer
5 bill of rights that: (a) Provides relief from unintentional mistakes
6 regarding state tax obligations; (b) requires the department to provide
7 information about a business's industry specific tax obligations at the
8 time of tax registration; and (c) requires the department to adhere to
9 any specific official written advice unless the department later
10 modifies the advice in writing.

11 NEW SECTION. **Sec. 3.** The department must administer this chapter.
12 The department must adopt rules as may be necessary to fully implement
13 this chapter and the rights established under this chapter.

14 NEW SECTION. **Sec. 4.** Small business taxpayers of the state of
15 Washington have:

16 (1) The right to receive industry specific tax guidance by the
17 department at the time the taxpayer initially registers his or her
18 business with the state;

19 (2) The right to a written explanation of the basis for any tax
20 deficiency assessments, interest, and penalties at the time the
21 assessments are issued;

22 (3) The right to have any interest and penalties on an assessment
23 waived if the assessment was a result of an unintentional act of the
24 taxpayer; and

25 (4) The right to rely on specific official written advice and
26 written tax reporting instructions from the department to that
27 taxpayer, and to have interest, penalties, and tax deficiency
28 assessments waived when the taxpayer has so relied to their proven
29 detriment unless the department provided later written tax reporting
30 instructions modifying the initial instructions.

31 NEW SECTION. **Sec. 5.** Unless the context clearly requires
32 otherwise, the definition in this section applies throughout this
33 chapter.

34 "Small business taxpayer" means: (1) A taxpayer operating as a
35 sole proprietorship; (2) a taxpayer in its first year of business

1 operations and operating as a limited liability business where the
2 initial capital contributions to the business were less than five
3 hundred thousand dollars; or (3) a taxpayer with less than five hundred
4 thousand dollars in gross income in the prior calendar year.

5 **Sec. 6.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to read
6 as follows:

7 (1) If the department (~~(of revenue)~~) finds that the payment by a
8 taxpayer of a tax less than that properly due or the failure of a
9 taxpayer to pay any tax by the due date was the result of circumstances
10 beyond the control of the taxpayer, the department (~~(of revenue shall)~~)
11 must waive or cancel any penalties imposed under this chapter with
12 respect to such tax.

13 (2) The department (~~(shall)~~) must waive or cancel the penalty
14 imposed under RCW 82.32.090(1) when the circumstances under which the
15 delinquency occurred do not qualify for waiver or cancellation under
16 subsection (1) of this section if:

17 (a) The taxpayer requests the waiver for a tax return required to
18 be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060,
19 82.29A.050, or 84.33.086; and

20 (b) The taxpayer has timely filed and remitted payment on all tax
21 returns due for that tax program for a period of twenty-four months
22 immediately preceding the period covered by the return for which the
23 waiver is being requested.

24 (3) The department (~~(shall)~~) must waive or cancel interest imposed
25 under this chapter if:

26 (a) The failure to timely pay the tax was the direct result of
27 written instructions given the taxpayer by the department; or

28 (b) The extension of a due date for payment of an assessment of
29 deficiency was not at the request of the taxpayer and was for the sole
30 convenience of the department.

31 (4) The department must waive or cancel interest and penalties
32 imposed under this chapter for a small business taxpayer if the failure
33 to pay taxes due was not intentional. For the purposes of this
34 subsection, "small business taxpayer" has the same meaning as provided
35 in section 5 of this act.

36 (5) The department (~~(of revenue shall)~~) must adopt rules for the

1 waiver or cancellation of penalties and interest imposed by this
2 chapter.

3 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act constitute
4 a new chapter in Title 82 RCW.

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