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**Ways & Means Committee**

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**HB 1184**

**Brief Description:** Clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction.

**Sponsors:** Representatives Maxwell, Orcutt, Kenney, Finn, Smith, Ryu, Goodman, Asay, Tharinger, Alexander, Pedersen, Appleton, Kelley, Eddy, Van De Wege, Sullivan, Dammeier, Angel, Seaquist, Clibborn, Bailey, Upthegrove, Rolfes, Carlyle and Frockt.

**Brief Summary of Bill**

- Exempts real estate commissions that are shared among more than two real estate firms from business and occupation tax.

**Hearing Date:** 2/1/11

**Staff:** Rick Peterson (786-7150).

**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. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates. The main rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere.

When the real estate commission on a particular transaction is shared between an originating broker and a cooperating broker, each broker pays the B&O tax only on their share of a commission. However, the payment of a portion of the commission to a third broker for referring a potential buyer or seller is not allowed by the Department of Revenue as a deduction from B&O tax. The broker receiving a referral fee is liable for B&O tax on the fee.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

In 2008 the Legislature changed the terms used to describe businesses and professionals providing real estate brokerage services to real estate firms, brokers, managing brokers, and designated brokers.

**Summary of Bill:**

The business and occupation tax applies to the respective share of the commission for each real estate firm that receives a commission at the time of closing on a real estate transaction. The terms and definitions related to real estate brokerage services are updated to be consistent with real estate licensing laws.

The bill applies both prospectively and retroactively.

**Appropriation:** None.

**Fiscal Note:** Requested on January 26, 2011.

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