

HOUSE BILL REPORT

HB 2794

As of Second Reading

Title: An act relating to narrowing a business and occupation tax deduction for banking, loan, security, and other financial businesses.

Brief Description: Narrowing a business and occupation tax deduction for banking, loan, security, and other financial businesses.

Sponsors: Representatives DeBolt, Sullivan, Anderson, Carlyle, Kretz, Springer, Smith, Hudgins, Short, Dickerson, Angel, Darneille, Warnick, Cody, Ross, Hinkle, Kristiansen, Haler, Parker, Ladenburg, Billig, Moscoso, Hansen, Pollet, Tharinger, Jinkins, Pearson, Wylie, Hunt, Kenney and Roberts.

Brief History:

Committee Activity:

Ways & Means: 2/29/12, 3/1/12.

Brief Summary of Bill

- Eliminates the business and occupation tax deduction for interest on first mortgages and deeds of trust on residential properties for financial institutions that operate in more than 10 states.
- Requires the Joint Legislative Audit and Review Committee to review the first mortgage tax deduction by June 30, 2015, as part of its tax preference review process.

HOUSE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (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. 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

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.

retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, interest earned on loans by financial institutions, and activities not classified elsewhere.

A B&O tax deduction is available to financial institutions for interest earnings on loans secured by first mortgages or deeds of trust on residential properties. An originating lender that sells mortgage loans onto the secondary market, but continues to service the loans, may deduct the fees for servicing these loans.

Legislation enacted in 2006 requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification serves the public interest. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling tax preferences, holding public hearings, and commenting on the reviews is assigned to the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The responsibility for conducting the reviews is assigned to the staff of the Joint Legislative Audit and Review Committee (JLARC). The Commission develops a schedule to accomplish a review by JLARC of each tax preference at least once every 10 years.

Summary of Bill:

A financial business that is located in more than 10 states may not deduct from business and occupation (B&O) tax amounts derived from interest earnings on loans secured by first mortgages or deeds of trust on residential properties.

The Joint Legislative Audit and Review Committee is directed to review the first mortgage deduction by June 30, 2015, as part of its tax preference review process.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 2012.

Staff Summary of Public Testimony:

(In support) We are in favor of this bipartisan proposal. We support this legislation because it has never been demonstrated that the tax break creates jobs or improves mortgage lending rates. A bank vice president told this committee last year that it is a national market and doesn't impact lending rates. This revenue stream will help stabilize the state budget. With record profits, the banking industry does not need to be incentivized.

(Opposed) First mortgages have never been taxed in this state. When financial services were first taxed back in the 1970s, first mortgages were excluded to provide a favorable mortgage

lending environment. The mortgage lending climate in this state is good. For qualified borrowers, the availability and affordability of loans is good. However, there are challenges. Two years ago, the nexus legislation was enacted, which will double the tax burden on this industry. We will have gone from one of the best states to do business to one of the worst from a tax perspective. This is the wrong message to send to this industry. The six largest banks provide 70 percent of the mortgage and small business lending in this state. They are beginning to view this state as an unfriendly place to do business, which may mean that they devote less capital to this state. The minimal fiscal impact of this bill will hardly stabilize the budget situation. This bill will not balance the budget. It makes me uncomfortable when one group of taxpayers are targeted. It is not good tax policy to tax an industry simply because the industry can afford it. It doesn't seem right to throw these businesses under the bus just because they are unpopular right now.

Persons Testifying: (In support) Nick Federici, Our Economic Future Coalition; and Bob Cooper, National Association of Social Workers - Washington Chapter.

(Opposed) Denny Eliason, Washington Bankers Association; Tim Eyman, I-1053; and Amber Carter, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.