
Finance Committee

HB 1958

Brief Description: Affirming centralized payroll services as nontaxable between affiliated companies.

Sponsors: Representatives Reykdal, Nealey, Lytton, Springer, Goodman, Wilcox, Vick and Orcutt.

Brief Summary of Bill

- Addresses the business and occupation taxation of centralized payroll services between affiliated companies.

Hearing Date: 2/26/13

Staff: Jeff 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. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted.

WAC 458-20-111 (Rule 111) allows an exclusion from the measure of tax amounts representing money or credits received by a taxpayer as reimbursement of an advance in accordance with the regular and usual custom of his business or profession. The rule states that the words "advance" and "reimbursement" apply only when the customer or client alone is liable for the payment of the fees or costs and when the taxpayer making the payment has no personal liability, either primarily or secondarily, other than as agent for the customer or client.

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.

The State Supreme Court has summarized the operation of Rule 111 by stating that the rule allows an exclusion from income for a "pass through" payment when the following three conditions are met: (1) the payments are "customary reimbursements for advances made to procure a service for the client"; (2) the payments "involve services that the taxpayer did not or could not render"; and (3) the taxpayer "is not liable for paying the associate firms except as the agent of the client." *Christensen, O'Connor, Garrison & Havelka v. Department of Rev.*, 97 Wn.2d 764, 769, 649 P.2d 839 (1982).

Summary of Bill:

A B&O tax exemption is provided for amounts received by a business that provides payroll and related human resource services to an affiliated company. The exemption is for amounts received by the business for an affiliate's employee costs. "Employee costs" means wages and salaries, benefits, or other assessments paid to or on behalf of the employee. "Affiliated" is defined to mean under common control.

Appropriation: None.

Fiscal Note: Requested on February 25, 2013.

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