

SENATE BILL REPORT

SB 5647

As of February 18, 2013

Title: An act relating to requiring the department of revenue to publish their determinations.

Brief Description: Requiring the department of revenue to publish their determinations.

Sponsors: Senators Braun, Kline, Carrell, Keiser, Dammeier, Rivers, Ericksen, Hobbs and Frockt.

Brief History:

Committee Activity: Trade & Economic Development: 2/12/13.

SENATE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

Staff: Jack Brummel (786-7428)

Background: The Department of Revenue (DOR) collects the majority of general fund taxes. DOR must keep tax returns and other information confidential, except in certain circumstances. DOR releases sanitized versions of determinations, in which information that would identify the taxpayer has been deleted, to notify taxpayers of administrative law changes. The Director of DOR may designate certain written determinations as precedents and must adopt by rule, criteria to decide which determinations are precedential. These written determinations designated as precedents must be published and made available for public inspection.

Summary of Bill: Code provisions relating to designation of written determinations as precedent, and the establishment of criteria for such designation, are removed. The Director must publish all determinations within 90 days of finalization. DOR must establish a stakeholder process to review determinations and make recommendations regarding technical clarity to assist taxpayers. The stakeholder process must also be used to develop recommendations for improving the redaction process while ensuring confidentiality and efficiency in implementation.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This will provide greater transparency. The Washington State Bar's tax section supports this bill. DOR's current program releasing determinations is practically meaningless because DOR publishes only 1 percent of decisions. We are back to a nearly opaque system. The bill will inspire taxpayer confidence and provide clarity and greater efficiency in resolving disputes. Washington is one of seven states that does not publish all of its tax rulings. DOR provides precedents but with only one set of facts so this will be helpful to prevent disputes. Small businesses have difficulty navigating the system because of a lack of transparency. This allows DOR to focus on the redaction process rather than on determining which determinations to publish.

OTHER: Transparency is important to DOR but they must maintain confidentiality. The bill could have a chilling effect on taxpayers seeking review of taxability. Simple redaction could expose information allowing identification of businesses. The bill does not allow updates of published decisions. This could lead to confusion.

Persons Testifying: PRO: Amber Carter, Assn. of WA Business; Norman Bruns, Michelle DeLappe, Gerald Swanson, WA State Bar Association Tax Section.

OTHER: Drew Shirk, DOR.