

# SENATE BILL REPORT

## SB 5808

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As of June 27, 2013

**Title:** An act relating to affirming centralized payroll services as nontaxable between affiliated companies.

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

**Sponsors:** Senators Schoesler, Tom, Honeyford, Hobbs, Baumgartner, Brown and Shin.

**Brief History:**

**Committee Activity:** Ways & Means: 2/26/13.

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Dean Carlson (786-7305)

**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 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 the taxpayer's 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.

**Summary of Bill:** A B&O tax exemption is provided for amounts received by a business, that is considered a qualified employer of record, 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.

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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.*

A qualified employer of record is an entity that pays the employee costs for employees whose work schedule and activities are controlled by one or more affiliated businesses that maintain control over employment decisions with respect to salary, discipline, hiring, and layoffs.

There is no exclusion for the B&O tax for employee costs if the employer of record has a contractual obligation to provide services other than paymaster services to the affiliated business.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The fiscal note is wrong. Employers will adjust their practices too, so they don't have to pay the unfair tax. This is simply an internal streamlining process. It's really just a regulatory burden. Since the early 80's DOR has allowed these practices. None of the other states we operate in require the payment of tax for a central payment system. Most companies will just restructure to avoid the tax, which should be unnecessary.

**Persons Testifying:** PRO: Amber Carter, Association of Washington Business; Tim Boyd, Boise Inc.