
**Agriculture & Natural Resources
Committee**

HB 2857

Brief Description: Concerning tax incentives that will promote the manufacturing and use of sustainable wood materials.

Sponsors: Representatives Blake, Harris, Rossetti, Walsh, Wilcox, Fey and Kilduff.

Brief Summary of Bill

- Exempts the portion of gross receipts derived from the wholesale, retail, or manufacture of cross-laminated timber (CLT) from the business and occupation tax, in the form of a deduction.
- Exempts certain qualifying construction containing CLT as a major design component from the sales and use tax, in the form of a remittance.

Hearing Date: 1/26/16

Staff: Jason Callahan (786-7117).

Background:

Cross-Laminated Timber.

According to generally accepted industry terms, cross-laminated timber (CLT) is a form of massive timber product. Massive timber products are factory-produced, structural wood panels of two inches or greater thickness and typical widths of four feet or more. CLT is a large-scale, prefabricated, solid engineered wood panel. Finished panels are typically between two and ten feet wide, with lengths up to 60 feet and thickness up to 20 inches. It is sometimes used as an alternative to conventional materials like concrete, masonry, or steel, especially in multi-family and commercial construction, and as long spans in walls, floors, and roofs.

Business and Occupation Tax.

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.

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. Current law authorizes multiple exemptions, deductions, and credits to reduce the B&O tax liability for specific taxpayers and business industries. The rates are as follows: 0.471 percent for retailing; 0.484 percent for wholesaling and manufacturing, and 1.5 percent for service and other.

Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services (including construction). A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value of property, digital product, or service when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 3.1 percent, depending on the location.

Taxation of Manufacturing Activities.

Persons who manufacture products in this state are subject to the manufacturing B&O tax upon the value of the products, including by-products, at a rate of 0.484 percent, unless the activity qualifies for a special preferential rate. Manufacturers who sell their products at retail or wholesale in this state are also subject to either the retailing (0.471 percent) or wholesaling (0.484 percent) B&O tax. In such cases, the manufacturer must report under both the "production" (manufacturing) and "selling" (wholesaling or retailing) classifications of the B&O tax. Manufacturers who report B&O tax on multiple activities in Washington may qualify for the multiple activities tax credit (MATC). The MATC is a B&O tax credit that is available to certain manufacturers, extractors, and sellers doing business in Washington. Businesses are eligible for this credit against the state B&O tax for gross receipts taxes paid in another jurisdiction or for taxes paid on multiple activities within Washington.

Tax Preferences for Wood Manufacturers.

Until June 30, 2024, manufacturers of wood products are subject to a preferential B&O tax rate of 0.3424 percent. This is comprised of a base rate of 0.2904 percent plus a surcharge of 0.052 percent. "Wood products" are defined as paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

Taxation of Construction Activities.

Prime contractors must collect retail sales tax from the purchaser of the construction project on the gross contract price (without deduction of costs incurred). Billing invoices must separately state the sales tax. If the contract requires retainage, sales tax must be computed before

deducting such amounts. Retail construction services are sourced to the location where the construction takes place. A contractor is considered the consumer of items purchased for use in the construction process and not used as component parts of the finished structure, and therefore, retail sales tax must be paid to the vendors of such items. The purchase of materials by custom contractors that will become part of the completed project are purchases for resale (wholesale). Such purchases are not subject to retail sales tax. Reseller permits allow businesses to purchase items or services for resale without paying retail sales tax. Use tax is due if sales tax has not been paid on items the contractor uses as a consumer. Use tax is generally due (if sales tax has not been paid) on the following: equipment, tools, supplies, and rentals of equipment, even if the cost for these items is passed along to the purchaser of the construction project.

Summary of Bill:

B&O Deduction for CLT Sale or Manufacture.

Wholesalers, retailers, and manufacturers of cross-laminated timber (CLT) may deduct receipts from the sale or manufacture of CLT from their total gross receipts, for the purposes of calculating B&O tax liability. Taxpayers must file an annual survey with the Department of Revenue (Department), listing the amount of tax preference claimed for the calendar year covered by the Department.

CLT means a prefabricated engineered wood product consisting of not less than three layers of solid-sawn lumber or structural composite lumber where the adjacent layers are cross oriented and bonded with structural adhesive to form a solid wood element.

The B&O deduction expires on July 1, 2023.

Sales and Use Tax Rebate for Qualifying Buildings Using CLT.

Taxpayers who have paid sales or use tax on the construction of a qualifying building using CLT as a major structural component are eligible for an exemption in the form of a remittance, based on both the state and local shares of the tax.

A building may qualify if the appropriate city or count authority verifies at permitting that it meets the following conditions:

1. Buildings that exceed three stories: CLT structural roof and floor components or CLT structural wall components are incorporated into the design in a way that allows them to resist at least 75 percent of lateral forces above the second floor.
2. Buildings with three or fewer stories: CLT structural roof and floor components or CLT structural wall components are incorporated into the design in a way that allows them to resist at least 75 percent of lateral forces above the first floor.

The sales and use tax provisions expires on July 1, 2023.

Joint Legislative Audit and Review Committee (JLARC) Review.

The bill contains a tax preference performance statement requiring JLARC to evaluate the number of businesses claiming the B&O tax deduction; the number of taxpayers who benefit

from the sales and use tax exemptions; and the number of construction projects that qualify for the sales and use tax exemptions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Applies to receipts collected and charges for construction paid on or after July 1, 2016.