
HOUSE BILL 1861

State of Washington

64th Legislature

2015 Regular Session

By Representatives Harmsworth, Muri, Stokesbary, Griffey, Nealey, Vick, Hayes, Buys, Hargrove, Van Werven, Wilson, and Magendanz

Read first time 01/30/15. Referred to Committee on Finance.

1 AN ACT Relating to creating a business and occupation tax
2 deferral program for small businesses; and adding a new section to
3 chapter 82.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04
6 RCW to read as follows:

7 (1) Beginning with taxes due and payable in calendar year 2016, a
8 small business may defer taxes due and payable under this chapter for
9 the current and subsequent calendar year as provided in this section.
10 A small business may not defer taxes due and payable in more than two
11 calendar years. A small business may not defer taxes under this
12 section that were previously deferred.

13 (2) A small business may defer taxes under this section only if:

14 (a) The business electronically files with the department all
15 returns, forms, and any other information required by the department,
16 in an electronic format as provided by the department; and

17 (b) The business is a new business.

18 (3) The department must allow a small business to make an
19 election to defer all or some taxes due and payable under this
20 chapter when the business electronically files its tax return. The

1 department must also provide an election to repay some or all
2 deferred taxes.

3 (4)(a) Taxes deferred under this section are due and payable by
4 the twenty-fifth of January of the sixth calendar year subsequent to
5 the calendar year in which the taxes were deferred under this
6 section.

7 (b) The department may not assess interest and penalties on
8 deferred taxes unless the taxpayer does not meet the repayment
9 provisions described in (a) of this subsection. For the purposes of
10 assessing interest and penalties, deferred taxes are considered due
11 and payable from the date described in (a) of this subsection, not
12 the original date of deferral, and assessed in the manner provided
13 under chapter 82.32 RCW.

14 (5) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

16 (a)(i) "New business" means a business that has not been
17 operating in Washington longer than twelve months from the time the
18 business applies for the credit under this section. The date that a
19 new business began operating in Washington, for purposes of this
20 section, is calculated from the date that a new business first
21 engages in business in Washington or engages in any activity that
22 generates gross income of the business from sources within this state
23 regardless of physical presence.

24 (ii) "New business" does not include:

25 (A) A business that has been reincorporated, restructured,
26 reorganized, or transferred, unless the majority of the activities to
27 be conducted after the reincorporation, restructuring,
28 reorganization, or transfer, calculated by relative gross income, are
29 significantly different from any of the activities previously
30 conducted by the predecessor or any other business involved in the
31 reincorporation, restructuring, reorganization, or transfer;

32 (B) A new branch location or other facility, unless such new
33 branch location or other facility is by an existing out-of-state
34 entity first doing business in this state; or

35 (C) A business that is substantially similar to a business
36 currently operated, or operated within the past five years, when the
37 majority of the beneficial ownership is the same.

38 (b) "Small business" means a person reporting a gross amount on
39 the combined excise tax return of five hundred thousand dollars or

1 less in the prior calendar year with respect to activities taxable
2 under this chapter.

3 (6) For the purposes of this section, a business or business
4 activities are presumed to be "substantially similar" and not
5 "significantly different" if properly within the same industry group
6 of the North American industry classification system.

--- END ---