
SUBSTITUTE SENATE BILL 5339

State of Washington

64th Legislature

2015 Regular Session

By Senate Trade & Economic Development (originally sponsored by Senators Padden, Rivers, Angel, Dansel, Schoesler, Becker, Warnick, Honeyford, and Parlette)

READ FIRST TIME 02/12/15.

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

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

5 NEW SECTION. **Sec. 1.** (1) This section is the tax preference
6 performance statement for the tax preference contained in section 2
7 of this act. This performance statement is only intended to be used
8 for subsequent evaluation of the tax preference. It is not intended
9 to create a private right of action by any party or be used to
10 determine eligibility for preferential tax treatment.

11 (2) The legislature categorizes this tax preference as one
12 intended to provide tax relief for new businesses and create jobs, as
13 indicated in RCW 82.32.808(2) (c) and (e).

14 (3) It is the legislature's specific public policy objective to
15 reduce the tax burden on new businesses during the first three years
16 of operation. It is the legislature's intent to provide a business
17 and occupation tax deferral in order to increase the number of new
18 business start-ups and decrease the number of new business failures,
19 thereby increasing jobs and economic activity.

1 (4) If a review finds that new business start-ups increase and
2 new business failures decrease, then the legislature intends to
3 extend the expiration date of the tax preference.

4 (5) In order to obtain the data necessary to perform the review
5 in subsection (4) of this section, the joint legislative audit and
6 review committee may refer to the department of revenue.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04
8 RCW to read as follows:

9 (1) A small business may defer taxes due and payable under this
10 chapter during the first three years of operation as provided in this
11 section. A small business may defer the following:

12 (a) One hundred percent of the taxes due under this chapter
13 during the first two years of operation; and

14 (b) Fifty percent of the taxes due under this chapter during the
15 third year of operation.

16 (2) A small business may not defer taxes under this section that
17 were previously deferred.

18 (3) A small business may defer taxes under this section only if:

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

22 (b) The business is a new business.

23 (4) The department must allow a small business to make an
24 election to defer all or some taxes due and payable under this
25 chapter when the business electronically files its tax return. The
26 department must also provide an election to repay some or all
27 deferred taxes.

28 (5)(a) The small business must begin repaying the deferred taxes
29 in the fifth year after the date in which the taxes were deferred
30 under this section. The first payment of twenty percent of the
31 deferred taxes will be due sixty months after the date of deferral,
32 with subsequent annual payments of twenty percent of the deferred
33 taxes due for each of the following four years. The department may
34 authorize an accelerated repayment schedule upon request of the
35 recipient.

36 (b) The department may not assess interest and penalties on
37 deferred taxes unless the taxpayer does not meet the repayment
38 provisions described in (a) of this subsection. For the purposes of
39 assessing interest and penalties, deferred taxes are considered due

1 and payable from the date described in (a) of this subsection, not
2 the original date of deferral, and assessed in the manner provided
3 under chapter 82.32 RCW.

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

6 (a)(i) "New business" means a business that has not been
7 operating in Washington longer than twelve months from the time the
8 business applies for the credit under this section. The date that a
9 new business began operating in Washington, for purposes of this
10 section, is calculated from the date that a new business first
11 engages in business in Washington or engages in any activity that
12 generates gross income of the business from sources within this state
13 regardless of physical presence.

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

15 (A) A business that has been reincorporated, restructured,
16 reorganized, or transferred, unless the majority of the activities to
17 be conducted after the reincorporation, restructuring,
18 reorganization, or transfer, calculated by relative gross income, are
19 significantly different from any of the activities previously
20 conducted by the predecessor or any other business involved in the
21 reincorporation, restructuring, reorganization, or transfer;

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

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

28 (b) "Small business" means a person reporting a gross amount on
29 the combined excise tax return of five hundred thousand dollars or
30 less in the prior calendar year with respect to activities taxable
31 under this chapter.

32 (7) For the purposes of this section, a business or business
33 activities are presumed to be "substantially similar" and not
34 "significantly different" if properly within the same industry group
35 of the North American industry classification system.

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