

SENATE BILL REPORT

ESB 5113

As Failed Senate, April 21, 2017

Title: An act relating to investing in education by modifying the business and occupation tax and providing small business tax relief.

Brief Description: Investing in education by modifying the business and occupation tax and providing small business tax relief.

Sponsors: Senators Braun, Ranker and Hunt; by request of Office of Financial Management.

Brief History:

Committee Activity: Ways & Means: 2/24/17 [w/oRec].

Floor Activity:

Failed Senate: 0-48.

Brief Summary of Engrossed Bill

- Imposes a 7 percent tax on adjusted Washington capital gains.
- Makes changes to the business and occupation tax (B&O), including imposing a 20 percent surtax on certain activities, increasing the filing threshold, repealing the small business credit, creating a new deduction of \$250,000, and repealing several preferential rates.
- Eliminates or narrows several tax preferences.
- Reforms the real estate excise tax.
- Requires the reporting of subcontractor information to the Department of Revenue.
- Requires marketplace facilitators, referrers, and their sellers to collect and remit sales or use tax, or comply with notice and reporting requirements.
- Expands liability for unpaid tax obligations for sales and use taxes, B&O tax, cigarette taxes, and other tobacco product taxes.
- Sets a new interest rate for tax refunds.
- Makes transfers of new revenue to the Education Legacy Trust Fund.

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: That it be referred without recommendation.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Bailey, Becker, Fain, Miloscia, Rivers, Schoesler, Warnick and Zeiger.

Staff: Dean Carlson (786-7305)

Background: Business and Occupation 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. Revenues are deposited in the state General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates include: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere.

Summary of Engrossed Bill: A 20 percent surcharge on the B&O tax is imposed for selected business activities:

- beginning July 1, 2017: extractors, manufacturers, most retailers, real estate brokers, digital products or services, nonprofit research and development, insurance producers, hospitals, salmon canning, radioactive waste clean-up, wholesalers, insurance agents, radio and television broadcasters, government contractors, printers, publishers highway contractors, extracting or processing for hire, warehousing, contest of chance, international investment management, custom software, loan interest, royalties, professional employer organizations, day care, chemical dependency services, and grocery distribution co-ops; and
- beginning July 1, 2024: newspapers.

The filing threshold for B&O taxes is increased to \$150,000. A deduction of \$250,000 is authorized for businesses with a taxable amount of less than or equal to \$250,000. If a business' taxable amount is greater than \$250,000, but less than \$500,000, there is a deduction of \$100,000.

If a taxpayer claims a Multiple Activities Tax Credit, they can claim a credit instead of a deduction. The credit for a calendar year will be equal to or lesser of tax due or the amount:

- for a person with a taxable amount of less than or equal to \$250,000 — \$250,000 multiplied by the highest applicable B&O rate to the taxpayer; or
- for a person with a taxable amount of greater than \$250,000, but less than \$500,000 — \$100,000 multiplied by the highest applicable B&O rate to the taxpayer.

The small business B&O credit is repealed.

A tax preference performance statement is provided for the B&O deduction. The legislative public purposes of the tax preference is to provide tax relief for certain businesses or individuals. If a Joint Legislative Audit and Review Committee (JLARC) review finds that more than 100,000 businesses in the state per year experience tax relief, it is the intent of the Legislature to extend the preference beyond the expiration date of January 1, 2033.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes July 1, 2017.

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: N/A.

Persons Signed In To Testify But Not Testifying: N/A.