
SUBSTITUTE SENATE BILL 5768

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Rossi and Frockt)

READ FIRST TIME 04/03/17.

1 AN ACT Relating to a leasehold excise tax credit for properties
2 of market value in excess of ten million dollars and for certain
3 major international airport leases; amending RCW 82.29A.120; creating
4 a new section; providing an effective date; and providing an
5 expiration date.

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

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

13 (2) The legislature categorizes this tax preference as one
14 intended to reduce structural inefficiencies in the state tax
15 structure, as indicated in RCW 82.32.808(2)(d).

16 (3) It is the legislature's specific public policy objective to
17 reduce the leasehold excise tax for certain taxpayers where the
18 amount of leasehold excise tax exceeds what would be owed in property
19 taxes if the property was owned by the taxpayer.

20 (4) To measure the effectiveness of the tax preference provided
21 in section 2 of this act in achieving the specific public policy

1 objective described in subsection (3) of this section, the joint
2 legislative audit and review committee must determine the amount of
3 leasehold excise tax paid by taxpayers claiming the credit under
4 section 2 of this act in comparison to the amount of leasehold excise
5 taxes or property taxes paid by a sample of taxpayers occupying
6 property geographically proximate to taxpayers claiming the credit
7 under section 2 of this act. The amount of leasehold excise tax or
8 property tax must be expressed in dollars per thousand dollars of
9 assessed value and any other way the joint legislative audit and
10 review committee deems necessary to clearly convey the data.

11 (5)(a) The information provided by taxpayers to the department of
12 revenue and publicly available property tax data is intended to
13 provide the informational basis for the evaluation under subsection
14 (4) of this section.

15 (b) In addition to the data source described under (a) of this
16 subsection, the joint legislative audit and review committee may use
17 any other data it deems necessary in performing the evaluation under
18 subsection (4) of this section.

19 (6) The amount of credit reported by a taxpayer to the department
20 is not confidential tax information under RCW 82.32.330 and is
21 subject to disclosure.

22 **Sec. 2.** RCW 82.29A.120 and 2013 c 235 s 3 are each amended to
23 read as follows:

24 (1)(a) After computation of the taxes imposed pursuant to RCW
25 82.29A.030 and 82.29A.040, the following credits are allowed in
26 determining the tax payable:

27 ~~((1))~~ (i) For lessees and sublessees who would qualify for a
28 property tax exemption under RCW 84.36.381 if the property were
29 privately owned, the tax otherwise due after this credit ~~((shall))~~
30 must be reduced by a percentage equal to the percentage reduction in
31 property tax that would result from the property tax exemption under
32 RCW 84.36.381; and

33 ~~((2))~~ (ii) A credit of thirty-three percent of the tax
34 otherwise due is allowed with respect to a product lease.

35 (b)(i) For a leasehold interest in real property owned by a state
36 university or a major international airport, a credit is allowed
37 equal to the amount that the tax under this chapter exceeds the
38 property tax that would apply if the real property were privately
39 owned by the taxpayer.

1 (ii) The credit under this subsection (1)(b) is available only if
2 the tax parcel that is subject to the leasehold interest:

3 (A) Has a market value in excess of ten million dollars. If the
4 leasehold interest attaches to two or more parcels, the credit is
5 available if at least one of the tax parcels has a market value in
6 excess of ten million dollars. In either case, the market value must
7 be determined as of January 1st of the year prior to the year for
8 which the credit is claimed; or

9 (B) Is subject to a lease that is between a lessee and the
10 governing body of the major international airport, except for those
11 leases between federal aviation administration-approved entities and
12 the governing body of a major international airport.

13 (iii) For purposes of calculating the credit under this
14 subsection (1)(b):

15 (A) If a tax parcel does not have current assessed value in
16 accordance with RCW 84.40.020, a market value appraisal performed by
17 a Washington state-certified general real estate appraiser, as
18 defined in RCW 18.140.010, is sufficient to establish the market
19 value. If the underlying real property that is the subject of the
20 leasehold interest consists of a part of one or more tax parcels,
21 this appraisal must include the market value of the part of the
22 parcel or parcels to which the leasehold interest applies; and

23 (B) The property tax that would otherwise apply to the real
24 property that is the subject of the leasehold interest is calculated
25 using the existing consolidated levy rate for the property's tax code
26 area.

27 (iv) The definitions in this subsection apply throughout this
28 subsection (1)(b) unless the context clearly requires otherwise.

29 (A) "Major international airport" means an airport that is
30 located in Washington and has one million or more enplanements in a
31 calendar year as reported by the federal aviation administration.

32 (B) "Market value" means the true and fair value of the property
33 as that term is used in RCW 84.40.030, based on the property's
34 highest and best use and determined by any reasonable means approved
35 by the department.

36 (C) "Real property" has the same meaning as in RCW 84.04.090 and
37 also includes all improvements upon the land the fee of which is
38 still vested in the public owner.

39 (D) "State university" has the same meaning as "state
40 universities" as provided in RCW 28B.10.016.

1 (v) The credit provided under this subsection (1)(b) may not be
2 claimed for tax reporting periods beginning on or after January 1,
3 2032.

4 (2) This section expires January 1, 2032.

5 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2022.

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