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SENATE BILL 5768

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State of Washington

65th Legislature

2017 Regular Session

By Senators Rossi and Frockt

Read first time 02/09/17. Referred to Committee on Ways & Means.

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; and providing an expiration date.

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

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

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

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

19 (4) To measure the effectiveness of the tax preference provided  
20 in section 2 of this act in achieving the specific public policy  
21 objective described in subsection (3) of this section, the joint

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

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

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

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

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

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

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

31 (2) A credit of thirty-three percent of the tax otherwise due is  
32 allowed with respect to a product lease.

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

38 (b) The credit under this subsection (3) is available only if the  
39 tax parcel that is subject to the leasehold interest:

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

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

12 (c) For purposes of calculating the credit under this subsection  
13 (3):

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

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

26 (d) The definitions in this subsection apply throughout this  
27 subsection (3) unless the context clearly requires otherwise.

28 (i) "Major international airport" means an airport that is:

29 (A) Owned by a port district in a county with a population of one  
30 million five thousand or greater; or

31 (B) Owned jointly by a city and a county in a county with a  
32 population of four hundred thousand or greater.

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

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

1        (iv) "State university" has the same meaning as "state  
2 universities" as provided in RCW 28B.10.016.

3        (e) The credit provided under this subsection (3) may not be  
4 claimed for tax reporting periods beginning on or after July 1, 2022.

5        NEW SECTION.    **Sec. 3.**    This act expires July 1, 2022.

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