FINAL BILL REPORT
ESB 6690

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Synopsis as Enacted

Brief Description: Concerning aerospace business and occupation taxes and world trade organization compliance.

Sponsors: Senators Liias and King.

Senate Committee on Ways & Means

Background: Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) 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. Businesses must pay B&O tax even though they may not have any profits or may be operating at a loss. A business may have more than one B&O tax rate, depending on the types of activities conducted. Major tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services, and activities not classified elsewhere. Several lower rates also apply to specific business activities, including preferential tax rates for the aerospace industry.

Legislative Background of Aerospace Tax Incentives. In 2003, the Legislature adopted tax incentives that were limited to aerospace manufacturers. The incentives included a 40 percent reduction in the B&O tax rate; a B&O tax credit for aerospace product development expenditures; and a B&O tax credit for property taxes paid on property used in the manufacture of commercial airplanes and airplane components. A leasehold tax exemption for port district facilities is available to manufacturers of superefficient airplanes that are not using the B&O tax credit for property taxes. Also included were sales and use tax exemptions for computer equipment and software, and its installation, used primarily in the development of commercial airplanes and airplane components. These tax preferences were originally scheduled to expire in 2024.

In 2006, the Legislature extended the sales and use tax exemption for computer equipment and software to nonmanufacturing firms engaged in the development, design, and engineering of commercial airplanes and components of commercial airplanes. The B&O tax credit for preproduction development expenditures related to commercial aircraft was also extended to nonmanufacturing firms. Businesses that use these incentives file an annual report with the Department of Revenue (DOR).

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.

In 2008, the Legislature extended aerospace tax programs to other manufacturers, federal aviation regulation (FAR) repair stations, and design/engineering services. Sales and use tax exemptions were provided for computer equipment and software, and its installation, which are used primarily in aerospace products or providing aerospace services. Until July 1, 2024, the B&O tax rate is 0.2904 percent for sales, either retail or wholesale, of commercial airplanes or components; manufacturing or sales of tooling used in the manufacturing of commercial airplanes and components of airplanes; or persons classified by the Federal Aviation Administration as a FAR 145 certified repair station. Persons claiming this rate must file an annual survey with DOR. Persons performing aerospace product development qualify for a 0.9 percent B&O rate and must file an annual survey with DOR. The preproduction 1.5 percent B&O tax credit on qualified expenditures was expanded to include aerospace product development. The B&O tax credit for property taxes paid was extended to aerospace product development, the manufacturing of tooling, and FAR Part 145 certified repair stations.

During a special legislative session in November of 2013, the expiration date was extended from 2024 to 2040 for the following aerospace tax preferences:

- the preferential business and occupation (B&O) tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes and airplane components;
- the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of tooling used in the manufacturing of commercial airplanes and airplane components;
- the preferential B&O tax rate for retail sales by a FAR Part 145 certificated repair station;
- the preferential B&O tax rate for businesses performing aerospace product development for others;
- the B&O tax credit for aerospace product expenditures;
- the B&O tax credit for property taxes and leasehold taxes on property used exclusively in manufacturing commercial airplanes or components of airplanes;
- the sales and use tax exemptions for computer hardware, computer peripherals, and software used primarily in the development, design, and engineering of aerospace products; and
- the leasehold excise tax exemption for lessees of port facilities used exclusively in manufacturing commercial airplanes.

The extension of these tax incentives in the 2013 special session was contingent on DOR making a determination that a final decision to locate a significant commercial airplane manufacturing program in the state had occurred by June 30, 2017. DOR made the required determination on July 9, 2014.

<u>World Trade Organization Dispute.</u> For approximately the last 15 years, the European Union and the United States have been involved in a corporate trade dispute between Airbus and Boeing. The World Trade Organization found that the world's two largest aerospace companies received billions of dollars of unfair subsidies.

Summary: Beginning April 1, 2020, the preferential B&O tax rate for the manufacturing, wholesaling, and retailing of commercial airplanes, airplane components, and tooling is eliminated.

After March 31, 2021, a preferential rate of 0.357 percent could be implemented if the following conditions are met:

- the United States and European Union reach an agreement resolving their World Trade Organization disputes regarding large civil airplanes that expressly allows preferential tax rates;
- the Department of Commerce notifies DOR in writing that such agreement has been reached, and includes a copy of the notice to the Department of Commerce from the United States trade representative regarding the agreement; and
- the Department of Labor and Industries notifies DOR that a significant commercial airplane manufacturer has at least a 0.3 percent aerospace apprenticeship utilization rate of its qualified apprenticeable workforce.

If the 0.357 percent tax rate is implemented, the aerospace industry is subject to an aerospace apprenticeship utilization rate of 1.5 percent of its qualified apprenticeable workforce by July 1, 2026, or five years after the effective date of the 0.357 percent rate.

An aerospace workforce council is created within the Department of Labor and Industries to establish a framework for apprenticeship utilization reporting and to establish efficient pathways to achieve apprenticeship targets in the bill. The council will meet at least twice a year beginning in calendar year 2020 until the apprenticeship utilization levels are achieved.

Votes on Final Passage:

Senate	43	5	
House	73	24	(House amended)
Senate	45	4	(Senate concurred)

Effective: March 25, 2020