

SENATE BILL REPORT

SB 6112

As of January 17, 2024

Title: An act relating to authorizing a business and occupation tax credit for the cost of donated food items by grocery stores and other food retailers.

Brief Description: Authorizing a business and occupation tax credit for the cost of donated food items by grocery stores and other food retailers.

Sponsors: Senators Lovick, Kuderer, Nguyen, Randall, Shewmake, Van De Wege and Wilson, C..

Brief History:

Committee Activity: Ways & Means: 1/18/24.

Brief Summary of Bill

- Provides a ten year business and occupation tax credit for food items donated to a food bank by a food retailer.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: State 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 the B&O tax even though they may not have any profits or may be operating at a loss. A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and depending on the size of the business as determined by gross income, either 1.5 or 1.75 percent for services and activities not classified elsewhere. Several preferential rates as well as increased rates or surcharges also apply to specific business activities. A B&O tax credit is a one-for-one

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reduction in tax liability. State law currently provides a number of credits against B&O tax liability.

Tax Preference Review Requirements. State law provides a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics the Joint Legislative Audit and Review Committee (JLARC) can use to review the effectiveness of the preference in achieving its stated public policy objectives. Tax preferences must be reviewed by JLARC at least once every ten years, unless state statute requires otherwise. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided or the tax preference is exempted from expiration. To assist the Legislature in its evaluation of economic development-related tax preferences, taxpayer beneficiaries are required to file annual tax preference performance reports detailing wages and employment of the taxpayer as well as tax savings from the tax preference.

Summary of Bill: A B&O tax credit is allowed for qualified donation items donated to a qualified food bank by a qualified food retailer. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Generally, the amount of B&O tax credit is equal to 100 percent of the qualified value of qualified donation items; however, the amount of credit is equal to 50 percent of the fuel cost charged by a food distributor for transporting qualified donation items to a food bank.

A qualified food retailer may not claim a B&O tax credit for qualified donation items donated on or after July 1, 2034.

A person claiming credits for qualified donation items must file an annual tax performance report with the Department of Revenue.

The bill indicates the Legislature's specific public policy objective is to encourage the increased donation of food items to food banks by food retailers and specifies an intent to extend the tax credit if the total value of qualified donation items has increased over the period of evaluation. The Joint Legislative Audit and Review Committee will perform the evaluation by looking at the year-to-year change in the number of taxpayers claiming the tax credit and the year-to-year change in the amount of credit claimed by taxpayers.

The following definitions are applicable to the bill:

- qualified donation items include, but are not limited to, fresh fruits or fresh vegetables; fresh meat, including poultry; eggs; rice; beans; infant formula; vegetable oil and olive oil; soup; pasta sauce; salsa; bread; pasta; and canned meats and canned seafood;

- qualified donation items also include the fuel cost charged by a distributor for transporting qualified donation items to a food bank;
- qualified food bank means a nonprofit organization primarily engaged in stocking food and other basic provisions to supply free of charge to people in need;
- qualified food retailer means:
 1. a business primarily engaged in retailing a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry; and
 2. a business primarily engaged in retailing a general line of groceries, including a significant amount and variety of fresh fruits, vegetables, dairy products, meats, and other perishable groceries, in combination with a general line of new merchandise, such as apparel, furniture, and appliances; and
- qualified value is the total purchase price of the qualified taxpayer's qualified donation items.

Appropriation: None.

Fiscal Note: Requested on January 17, 2024.

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

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2024.