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HOUSE BILL 1998

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State of Washington

69th Legislature

2025 Regular Session

By Representatives Walen and Orcutt

Read first time 02/18/25. Referred to Committee on Finance.

1 AN ACT Relating to clarifying the scope of the investment income  
2 business and occupation tax deduction; amending RCW 82.04.4281; and  
3 creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the application  
6 of the business and occupation tax deduction provided in RCW  
7 82.04.4281(1)(a) for investment income has once again become the  
8 subject of uncertainty as a result of the decision of the state  
9 supreme court in *Antio, LLC v. Department of Revenue*, which could  
10 lead to a restrictive, narrow interpretation of the deductibility of  
11 investment income for business and occupation tax purposes. The  
12 legislature intends, by adopting this revision to RCW 82.04.4281, to  
13 clarify and preserve the certainty and stability for taxpayers and  
14 the state that generally ensued following the adoption of chapter  
15 250, Laws of 2002 in response to the decision of the state supreme  
16 court in *Simpson Investment Co. v. Department of Revenue*. The  
17 legislature intends, by adopting this clarifying revision of RCW  
18 82.04.4281, to avoid uncertainty while continuing to treat similarly  
19 situated taxpayers fairly.

1       **Sec. 2.** RCW 82.04.4281 and 2007 c 54 s 9 are each amended to  
2 read as follows:

3       (1) In computing tax there may be deducted from the measure of  
4 tax:

5       (a) Amounts derived from investments;

6       (b) Amounts derived as dividends or distributions from the  
7 capital account by a parent from its subsidiary entities; and

8       (c) Amounts derived from interest on loans between subsidiary  
9 entities and a parent entity or between subsidiaries of a common  
10 parent entity, but only if the total (~~investment and~~) loan income  
11 is less than five percent of gross receipts of the business annually.

12       (2) The following are not deductible under subsection (1)(a) of  
13 this section:

14       (a) Amounts received from loans, except as provided in subsection  
15 (1)(c) of this section, or the extension of credit to another,  
16 revolving credit arrangements, installment sales, the acceptance of  
17 payment over time for goods or services, factoring, or any of the  
18 foregoing that have been transferred by the originator of the same to  
19 an affiliate of the transferor; or

20       (b) Amounts received by a banking, lending, or security business.

21       (3) The definitions in this subsection apply only to this  
22 section.

23       (a) "Banking business" means a person engaging in business as a  
24 national or state-chartered bank, a mutual savings bank, a savings  
25 and loan association, a trust company, an alien bank, a foreign bank,  
26 a credit union, a stock savings bank, or a similar entity that is  
27 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title  
28 12 U.S.C.

29       (b) "Factoring" means the purchase, sale, and collection of  
30 accounts receivable, including credit card receivables.

31       (c) "Investment" has its ordinary meaning and includes without  
32 limitation any investment in equities; fixed income instruments  
33 including, but not limited to, bonds, notes, debentures, commercial  
34 paper, savings deposits, bank deposits, time certificates, and  
35 mortgage loans; derivative instruments including, but not limited to,  
36 options, futures, repurchase agreements, and swaps; and commodities  
37 instruments.

38       (d) "Lending business" means a person engaged in the business of  
39 making secured or unsecured loans of money, or extending credit, and  
40 (i) more than one-half of the person's gross income is earned from

1 such activities and (ii) more than one-half of the person's total  
2 expenditures are incurred in support of such activities.

3 ~~((e))~~ (e) The terms "loan" and "extension of credit" do not  
4 include ownership of or trading in publicly traded debt instruments,  
5 or substantially equivalent instruments offered in a private  
6 placement.

7 ~~((d))~~ (f) "Security business" means a person, other than an  
8 issuer, who is engaged in the business of effecting transactions in  
9 securities as a broker, dealer, or broker-dealer, as those terms are  
10 defined in the securities act of Washington, chapter 21.20 RCW, or  
11 the federal securities act of 1933. "Security business" does not  
12 include any company excluded from the definition of broker or dealer  
13 under the federal investment company act of 1940 or any entity that  
14 is not an investment company by reason of sections 3(c)(1) and  
15 3(c)(3) through 3(c)(14) thereof.

16 NEW SECTION. **Sec. 3.** This act applies retroactively. The  
17 legislature does not intend for section 2 of this act to  
18 retroactively create a right of refund for taxes paid on amounts  
19 derived from investments before the effective date of this section.

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