
SENATE BILL 5774

State of Washington

69th Legislature

2025 Regular Session

By Senator Torres

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.

--- END ---