

# HOUSE BILL REPORT

## 2ESSB 6143

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**As Passed House - Amended:**

March 9, 2010

**Title:** An act relating to modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

**Brief Description:** Modifying excise tax laws to preserve funding for public schools, colleges, and universities, as well as other public systems essential for the safety, health, and security of all Washingtonians.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

**Brief History:**

**Committee Activity:**

None.

**First Special Session**

**Floor Activity:**

Passed House: 3/20/10, 53-42.

Senate Refuses to Concur.

**Conference Committee Report Adopted.**

Passed House: 4/10/10, 52-44.

**Brief Summary of Second Engrossed Substitute Bill**

- Provides a statutory method for determining whether service businesses have substantial nexus for the purpose of imposing state business and occupation (B&O) taxes.
- Establishes a gross receipts, single-factor apportionment formula for allocating service and royalty income to Washington.
- Closes loopholes used to avoid use taxes and real estate excise taxes (REET).
- Places an annual cap of \$120 million on the first mortgage B&O tax deduction.
- Eliminates the nonresident sales tax exemption.
- Eliminates the direct seller's representative (DSR) B&O tax exemption on April 1, 2010.

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*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.*

- Retroactively narrows the DSR B&O tax exemption.
- Modifies the preferential B&O tax rate for manufacturing and wholesaling activities related to perishable meat products.
- Clarifies tax preferences for manufacturing and wholesaling activities related to fresh fruits and vegetables.
- Suspends sales tax exemption for nutrient management equipment, facilities, and related services for beef cattle feeding operations between April 1, 2010 and July 1, 2015.
- Makes corporate board of directors fees subject to the B&O tax at the 1.5 percent tax rate.
- Increases the aircraft excise tax.
- Expands the authority of the DOR to pursue individuals for state and local sales taxes collected by limited liability business entities.
- Extends state and local sales and use taxes to bottled water and custom software services.
- Clarifies the definition of "gross revenue" for purposes of the public utility district privilege tax.
- Imposes a 0.25 percent B&O surtax for three years on services.
- Eliminates the B&O tax exemption for amounts received by a property management company for payments to on-site personnel.
- Eliminates the 2 percent state sales tax credit for the Seattle 2 percent hotel-motel tax that is credited against the state sales tax.

**Staff:** Rick Peterson (786-7150).

**Background:**

Business and Occupation Taxes.

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. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. There are several rate categories, and a business may be subject to more than one B&O tax rate, depending on the types of activities conducted.

Sales and Use Taxes.

Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital

products, and some services. The state sales tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3 percent, depending on the location. The average local tax rate is 2.4 percent, for an average combined state and local tax rate of 8.5 percent.

The use tax applies to the acquisition of tangible personal property (TPP), digital products, and some services that were not subject to sales tax. The use tax statute is very specific as to which TPP acquisitions it applies to: any article of TPP purchased at retail, or TPP acquired by lease, gift, repossession, or bailment; or TPP extracted or produced by the person using the TPP. The tax is measured by the value of the item at the time of first use within the state. Use tax rates are equivalent to retail sales tax rates. The Department of Revenue (DOR) rules state that, "[a] transfer of capital assets to or by a business is deemed not taxable to the extent the transfer is accomplished through an adjustment of beneficial interest of the business."

### Nexus.

Nexus is the level of connection with a state necessary under the U. S. Commerce Clause to permit a state to impose a tax or a sales tax collection duty on out-of-state businesses doing business in the state. A state tax is constitutional under the U. S. Commerce Clause if it is assessed against a taxpayer with whom the state has a substantial nexus, is fairly apportioned, is nondiscriminatory, and is fairly related to the services provided by the state. Of these requirements, the substantial nexus requirement is often the most difficult to determine. In *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), the Supreme Court (Court) held that out-of-state businesses must have a "physical presence" in the state for there to be "substantial nexus" sufficient under the U. S. Commerce Clause to impose a sales tax collection duty. However, the Court was less clear in indicating whether the physical presence standard extends to other taxes. The proper nexus standard for state taxation of out-of-state businesses has been a contentious issue since the Quill decision. Numerous state courts have since affirmed economic presence standards, holding that a state may tax businesses with no physical presence within its borders.

Washington uses a physical presence standard to determine whether a business has nexus with Washington. A physical presence standard requires a business to own or use real or personal property in this state, employ employees in this state, or engage, directly or through an agent, in activities in this state significantly associated with the business' ability to establish or maintain a market for its products or services in this state. A few examples of nexus-creating activities include: soliciting sales in this state through employees or other representatives; installing or assembling goods in this state, either by employees or other representatives; maintaining a stock of goods in this state; renting or leasing TPP in this state; or making repairs or providing maintenance or service to property sold in this state.

### Apportionment.

Generally, a business performing service-taxable activities inside and outside the state must apportion to Washington the gross income derived from Washington activities as determined by a separate accounting method. However, if a separate accounting is impractical or inaccurate, Washington law provides an apportionment formula based on the cost of doing business in Washington versus the cost of doing business everywhere. More specifically, the

apportionment formula is a fraction. The numerator of the fraction is the cost of doing business in Washington, and the denominator is the total cost of doing business everywhere. A business' total income, earned inside and outside of Washington, is multiplied by the resulting fraction/percentage to determine the amount of service income subject to Washington's B&O tax. Under Washington law, only service-taxable activities are subject to the apportionment formula.

Financial institutions are subject to a different formula for apportionment. State law requires that the rules for financial institutions be consistent with uniform rules for apportionment developed throughout the nation. The DOR has issued a rule that provides a standard, three-factor formula for financial institutions. The apportionment percentage is the average of a receipts factor, payroll factor, and property factor. The financial institutions total gross income, earned inside and outside of Washington, is multiplied by the resulting percentage to determine the amount of income subject to Washington's B&O tax.

Royalty income is not apportioned in this state. Instead, royalties are allocated to the domicile of the business.

#### Real Estate Excise Tax.

The sale of real estate is subject to the state real estate excise tax (REET). The tax is measured by the full selling price, including the amount of any liens, mortgages, or other debts multiplied by the rate of 1.28 percent. State law also authorizes several local REETs.

The REET also applies to transfers of controlling interests in entities that own property in the state. In order for the REET to apply to the sale of a controlling interest in an entity that owns real property, the following must have occurred: (1) the transfer or acquisition of the controlling interest occurred within a 12-month period; (2) the controlling interest was transferred in a single transaction or series of transactions by a single person or acquired by a single person or a group of persons acting in concert; (3) the entity has an interest in real property located in this state; (4) the transfer is not otherwise exempt from tax under state law; and (5) the transfer was made for valuable consideration. A program established in 2005 requires transfers of controlling interests in an entity that owns real property to be reported to the Office of the Secretary of State. Failure to report a transfer of a controlling interest to the Secretary of State can result in interest and penalties, including a 50 percent tax evasion penalty.

The REET is a legal obligation of the seller. Additionally, a statutory lien is placed on the property until the tax is paid. If REET is not properly paid, the DOR may enforce the obligation in an action of debt against the seller, enforce the lien in the same manner as a mortgage foreclosure, or some combination of the two. A buyer may also be liable for the REET unless the buyer notifies the DOR in writing within 30 days following the sale.

#### First Mortgage Deduction.

Washington law provides a deduction for financial institutions for interest earnings on loans secured by first mortgages or deeds of trust on residential properties. The Washington Supreme Court, in *Homestreet, Inc. v. Dep't of Revenue*, 166 Wn.2d 444 (2009), held that a

mortgage lender was entitled to the deduction for the portion of interest it retained for servicing loans and mortgage-backed securities that it sold on a service-retained basis on the secondary market. Put differently, the *Homestreet* decision allows an originating lender that sells mortgage loans onto the secondary market, but continues to service the loans, to deduct service fees.

#### Nonresident Sales Tax Exemption.

Persons who reside in a state, possession, or Canadian province that imposes a sales tax of less than 3 percent are exempt from Washington retail sales tax on TPP purchased for use outside of Washington (i.e., the exemption does not apply to lodging or meals). Sales to residents of other states may also be exempt if their state of residence allows similar exemption for Washington residents; however, no state currently qualifies under this provision of reciprocity.

#### Direct Seller Business and Occupation Tax Exemption.

A B&O tax exemption is provided for certain out-of-state sellers that sell consumer products exclusively to or through a direct seller's representative (DSR). Broadly, a "DSR" is defined to mean a person who buys consumer products for resale in either the home or some other forum that does not constitute a permanent retail establishment. There is no explicit requirement in the statute that the seller make sales of only consumer products through the DSR nor an explicit requirement that prohibits downstream sales of consumer products from being sold at retail from a permanent retail establishment. Traditionally, the exemption has been used by out-of-state sellers engaged in sales of consumer products exclusively through in-home parties or door-to-door selling. A seller qualifying for the exemption does not owe B&O tax on wholesaling or retailing of the consumer products. (The representative owes B&O tax on the commission.) In *Dot Foods, Inc. v. Dep't of Revenue*, Docket No. 81022-2 (September 10, 2009), the Washington Supreme Court held that the exemption also applies to out-of-state businesses selling non-consumer products through its representative, in addition to consumer products and to out-of-state businesses for consumer products ultimately sold at retail in permanent retail establishments. Many out-of-state businesses selling consumer products in this state could be eligible for the exemption under this expanded interpretation or could easily restructure their business operations to qualify for the exemption. The state has asked the Washington State Supreme Court to reconsider its decision.

#### Tax Preferences for Manufacturers of Certain Agricultural Products.

Washington law provides a preferential tax rate for the business of slaughtering, breaking, or processing of perishable meat products and the wholesaling of such perishable meat products. In *Agrilink Foods, Inc. v. Dep't of Revenue*, 153 Wn.2d 392 (2005), the Supreme Court held that the preferential B&O tax rate applies to the processing of perishable meat products into nonperishable finished products, such as canned food. There had been a question as to whether the finished product had to also be a perishable meat product.

A B&O tax exemption is provided for manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, and selling such products at wholesale by the manufacturer to purchasers who transport the goods out of state in the ordinary course

of business. This exemption expires July 1, 2012, and is replaced by a preferential B&O tax rate.

#### Sales and Use Tax Exemption for Livestock Nutrient Management Equipment and Facilities.

In 2001 the Legislature provided an exemption from sales and use taxes for dairy nutrient management equipment, facilities, and related services. To be eligible the person had to have a certified dairy nutrient management plan. In 2006 the sales and use tax exemption was broadened beyond dairy to other sectors of the livestock industry that had approved nutrient management plans. A sales and use tax exemption applies to the materials, machinery, equipment, and labor and services purchased or used in relation to the operation, repair, cleaning, alteration, or improvement of livestock nutrient management facilities and equipment. Livestock nutrient management facilities and equipment are machinery, equipment, and structures used in the handling and treatment of livestock manure, such as aerators, agitators, alley scrapers, and augers. The exemption includes repair and replacement parts. The exemption requires facilities and equipment to be used exclusively for activities necessary to maintain a livestock nutrient management plan.

#### Preferential Business and Occupation Tax Rate for Board of Director Income.

The wages of employees are exempt from the B&O tax. Members of corporate boards of directors receive fees for their services. Corporate directors are not employees of the corporation when they engage in their roles as corporate directors.

#### Aircraft Excise Tax.

All aircraft must be registered for each calendar year in which it is operated within the state. An excise tax, collected by the Aviation Division of the state Department of Transportation, is imposed when an aircraft is first registered and the tax is subsequently paid annually during January of each year. The tax is a fixed charge that varies based on the type of aircraft. Annual charges range from \$20 to \$125. The tax is levied in lieu of the personal property tax. However, the law exempts several types of aircraft from the excise tax, which in turn subjects an aircraft to the personal property tax. Commercial aircraft principally used in interstate or foreign commerce are an example of aircraft exempt from the aircraft excise tax, but subject to the personal property tax. Ninety percent of the receipts from the tax are deposited in the State General Fund with the remainder going to the Aeronautics Account.

#### Tax Debts.

Upon the termination, dissolution, or abandonment of a corporate or other limited liability business, an officer, member, manager, or other person having control and supervision of retail sales tax funds is personally liable for unpaid sales tax if the person willfully fails to pay the tax. Furthermore, personal liability will only apply in situations where the DOR has determined that there is no reasonable means of collecting the retail sales tax funds directly from the business.

#### Sales and Use Tax Exemption for Food and Food Ingredients.

Washington specifically exempts "food and food ingredients" from state and local sales and use taxes. Therefore, any food product included within the definition of "food and food ingredients" is exempt from sales and use tax. "Food and food ingredients" is defined to mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Prepared food, soft drinks, and dietary supplements are excluded from the definition and are therefore subject to sales and use tax. However, candy and bottled water are included within the definition and are therefore exempt from sales and use tax.

#### Public Utility District Privilege Tax.

Public Utility Districts (PUDs) were created to provide water and electricity, and to conserve water and power resources. Currently, there are 28 PUDs: 23 provide electricity services, 14 provide water or water and wastewater service, and 13 offer wholesale broadband telecommunications service. The powers of a PUD are executed by a board of three or five elected commissioners.

The PUDs that generate, transmit, or distribute electricity are subject to the PUD privilege tax. The tax is intended to be in lieu of property tax, since PUDs are governmental entities and do not pay property taxes.

The PUD privilege tax includes three separate tax bases: electricity that is distributed to PUD customers, electricity that is generated by PUDs at hydroelectric and other facilities, and electricity that is generated by thermonuclear facilities on federal lands, which applies specifically to the nuclear generation facility operated on the Hanford reservation by Energy Northwest. On electricity distributed to retail PUD customers, the tax rate is 2.14 percent of the gross revenue received from the retail sales. On electricity that is generated, the tax rate is equal to 5.35 percent of the first 0.4 cents of wholesale value of each kilowatt-hour of electricity. On electricity that is generated by the Energy Northwest's Columbia Generating Station at Hanford, the tax rate is 1.605 percent of the wholesale value of the electricity.

The PUD privilege tax is administered by the DOR. Tax receipts are shared with local governments and are distributed to local governments under a formula that recognizes where electricity is sold and the location where generating facilities are located. In Fiscal Year 2008, \$23 million was distributed to local governments. The state received \$19 million.

The tax is based on the amount received from the sale of electricity. A recent lower court case has upheld the request for refund of tax by two PUDs that separate their kilowatt-hour charges from the charge to recoup the costs of providing service regardless of whether any electricity is used (e.g. meter reading, billing, and fixed facilities). These PUDs argue that tax should be paid only on the kilowatt-hour charge. It has been the DOR's interpretation that the tax applies to the entire amount received.

#### B&O Exemption for Property Management Salaries.

The B&O tax exemption is allowed for amounts received by a property management company, if the payments are received from a property management trust account for payment of wages and benefits to on-site personnel.

## Seattle Convention Center Hotel-Motel Tax.

The City of Seattle imposes a 2 percent tax on the sale of lodging in hotels, motels, and similar facilities in Seattle with at least 60 units. The 2 percent tax is credited against the state retail sales tax, so that it does not increase the cost of room rentals to customers. All of the revenues are deposited in the state Convention and Trade Center Account and are dedicated to costs of expanding the convention center. Thus, the effect of this tax is to shift funds from the State General Fund to the State Convention and Trade Center Account with the State Treasury.

### **Summary of Bill:**

#### Nexus.

For purposes of imposing the state B&O tax on service activities and the activity of receiving royalty income, a business or individual will have substantial nexus with the state if the individual or business meets one of the following requirements: (1) an individual is a resident or domiciled in the state; (2) a business entity is organized or commercially domiciled in this state; or (3) the individual or business is organized or domiciled outside the state but has more than \$50,000 of property in the state, more than \$50,000 of payroll in the state, more than \$250,000 of receipts from this state, or at least 25 percent of the individual's or business's total property, total payroll, or total receipts in this state. This nexus standard only applies to service activities and the activity of receiving royalty income. A business or individual with substantial nexus in any tax year is deemed to have substantial nexus with the state for the following four tax years.

Property counting toward the thresholds is the average value of the taxpayer's property owned or rented in the state during the tax year. Other than loans and credit card receivables, property is generally valued at its cost basis. Loans and credit card receivables are generally valued at their outstanding principal balance. Rented property is valued at eight times the annual rental rate, less any amounts received for subrentals. Receipts counting towards the thresholds are the amounts included in the numerator for purposes of apportioning income to the state as described below.

Payroll counting towards the thresholds is the total amount paid by the business for compensation in this state. Compensation is paid in this state if the compensation is reportable to this state for unemployment compensation tax purposes. The property, payroll, and receipts thresholds are adjusted annually for changes in the consumer price index (CPI) if the change in the CPI is 5 percent or more since the last adjustment. The DOR reviews the CPI every December, and an adjustment applies to any tax period that begins after the adjustment is made.

#### Apportionment.

Income derived from service activities and royalties is apportioned to Washington based on a receipts factor. The receipts factor is a fraction of which the numerator is the total gross income of the business attributable to this state for the activity and the denominator is the



worldwide gross income of the business for the activity. The total worldwide gross income from the activity is multiplied by the receipts factor to determine the amount of income apportioned to Washington for purposes of the B&O tax. Apportionment using the receipts factor would replace the three-factor apportionment formula for financial institutions and the cost apportionment formula for other businesses providing services.

Except for financial institutions, gross income is attributable to this state based on the following series of hierarchical rules:

1. Income is attributable to this state if the customer received the benefit of the service in this state or used the business's intangible property in this state.
2. If the customer received the benefit of the service or used the intangible property in more than one state, income is attributable to the state where the service was primarily received or where the intangible property is primarily used.
3. If income cannot be attributed under the foregoing, then the income is attributable to the state where the customer ordered the service or where the royalty agreement was negotiated.
4. If income cannot be attributed under the foregoing, then the income is attributable to the state to which the billing statements or invoices are sent to the customer.
5. If income cannot be attributed under the foregoing, then the income is attributable to the state from which the customer sends payment to the business.
6. If income cannot be attributed under the foregoing, then the income is attributable to the state where the customer is located.
7. If income cannot be attributed under the foregoing, then the income is attributable to the state where the business is domiciled.

For financial institutions, gross income is attributable to this state as determined by rule adopted by the Department of Revenue.

#### Use Tax.

The statutory language describing how the acquisition of tangible personal property occurs (lease, gift, bailment, etc.) is eliminated. Therefore, the acquisition of tangible personal property in any manner is subject to use tax unless some other provision specifically exempts the transaction.

#### Real Estate Excise Tax.

For the purpose of determining whether the sale of a controlling interest has occurred within a 12-month period, an option to purchase real estate is also included in the determination. The date the option agreement is executed is used as the relevant date.

The DOR may, at its option, enforce the collection of REET for the sale of a controlling interest in a business by pursuing the buyer of a controlling interest, seller of a controlling interest, or the business entity itself of which a controlling interest is transferred.

The law is clarified that a lien for payment of REET attaches to each parcel of property owned by an entity in which a controlling interest has been transferred.

A parent corporation of a wholly-owned subsidiary is responsible for REET if the subsidiary transfers real property to a third party and then dissolves before payment of the tax.

Buyers are no longer absolved from REET liability by simply providing notice of a real estate sale to the DOR.

#### First Mortgage Deduction.

An annual \$120 million cap is placed on the deduction. Therefore, a financial business may not deduct more than \$120 million in any calendar year for amounts derived from interest. Interest income is clarified to mean the portion of fees charged to borrowers, including points and origination fees, that are recognized over the life of the loan as an adjustment to yield using generally accepted accounting principles.

#### Nonresident Sales Tax Exemption.

The nonresident sales tax exemption is eliminated. The exemption for motor vehicles, boats and trailers to be licensed in another state is retained.

#### Direct Seller Business and Occupation Tax Exemption.

The direct sellers representatives (DSR) B&O tax exemption is eliminated beginning April 1, 2010.

A retroactive change is made to the DSR B&O exemption that narrows the exemption by requiring the DSR to have purchased only consumer products to qualify for the exemption. This retroactive change will prevent companies that might have otherwise qualified for the exemption, absent the changes made in this bill, from seeking a refund. The retroactive change will not impact the taxpayer that prevailed in the Dot Foods decision, if there is a final judgment, not subject to appeal, entered by a court before April 1, 2010.

#### Tax Preferences for Manufacturers of Certain Agricultural Products.

The exemption for slaughtering, breaking, or processing perishable meat products or selling these perishable meat products at wholesale is modified by requiring that the end product be: a perishable meat product, a nonperishable meat product that is comprised primarily of animal carcass by weight or volume other than a canned meat product, or a meat by-product. The tax preference for fruit and vegetable manufacturers is modified by requiring that the end product be comprised either exclusively of fruits or vegetables, or any combination of fruits, vegetables, and certain other substances that, cumulatively, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

A number of conforming amendments are made to update statutory cross references that would become incorrect upon enactment of the bill.

#### Sales and Use Tax Exemption for Livestock Nutrient Management Equipment and Facilities.

The sales and use tax exemption for livestock nutrient management equipment and facilities is suspended from April 1, 2010 to June 30, 2013.

Preferential Business and Occupation Tax Rate for Board of Director Income.

The fees paid to members of corporate boards of directors are explicitly subject to tax under the "service and other" classification at the 1.5 percent tax rate. Therefore, fees paid to members of corporate boards of directors would not be exempt under the exemption for wages and salaries for employees.

Aircraft Excise Tax.

Starting January 1, 2011, the existing aircraft excise tax is increased. The tax for all aircraft except for turbojet multi-engine fixed wing aircraft is increased as follows:

Aircraft Type	Built before 1971	Built after
Single engine fixed wing	\$100	
Small multi-engine fixed wing	\$130	
Large multi-engine fixed wing	\$160	
Turboprop multi-engine fixed wing	\$6,750	\$6
Helicopters	\$150	
Sailplanes, lighter than aircraft, and home built planes	\$40	

The tax on turbojet multi-engine fixed wing aircraft is based on the planes' maximum certificated takeoff weight as follows:

turbojet multi-engine fixed wing aircraft	
Maximum certificated takeoff weight	Tax
up to 19,999 pounds	\$13,500
20,000 to 24,999 pounds	\$18,000
25,000 to 44,999 pounds	\$22,500
45,000 to 84,999 pounds	\$33,750
above 85,000 pounds	\$45,000

Tax Debts.

When the DOR issues a tax warrant for unpaid tax from a limited liability business entity (i.e., corporation, limited liability company, limited liability partnership, etc.) that has been terminated, dissolved, abandoned, or is otherwise insolvent, the DOR may pursue the collection of unpaid taxes from a responsible individual. A responsible individual means any current or former officer, manager, member, partner, or trustee of a limited liability business entity. Personal liability extends to unpaid state and local sales taxes. Personal liability for unpaid taxes extends to current or former chief executive officers or chief financial officers

regardless of fault or whether the individual was or should have been aware of the unpaid tax liability. For other individuals, personal liability applies only if the individual willfully failed to pay the tax.

#### Sales Taxes on Bottled Water and Custom Software.

State and local sales and use taxes are extended to bottled water by removing the item from the exemption for food and food ingredients. Exemptions are provided for bottled water dispensed by a prescription or for persons for which potable water is not readily available.

State and local sales and use taxes are imposed on custom software services including the customization of prewritten computer software. Generally, "custom software services" is the development of computer software for a specific person. "Customization of prewritten computer software" means any alteration, modification, or development of applications using or incorporating prewritten computer software for a specific person.

#### Public Utility District Privilege Tax.

The PUD privilege tax applies to all charges for sale of electricity including any recurring charges that are billed to consumers as a condition for receiving electricity.

#### Business and Occupation Surtax on Certain Services.

A temporary B&O surtax of 0.25 percent starting April 1, 2010 is imposed on the service B&O tax category. The small business tax credit is doubled for business with over 50 percent of their taxable activity subject to the 0.25 percent surtax. The additional surtax rate does not apply to scientific research and development. The surtax ends on June 30, 2013.

#### B&O Exemption for Property Management Salaries.

The B&O tax exemption for amounts received by a property management company for payment of wages and benefits to on-site personnel is repealed.

#### Seattle Convention Center Hotel-Motel Tax.

The state sales tax credit for the City of Seattle 2 percent tax on the sale of lodging in hotels, motels, and similar facilities is repealed.

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**Appropriation:** None.

**Fiscal Note:** Requested 3/9/10.

**Effective Date:** The bill contains an emergency clause and takes effect April 1, 2010, except Sections 101-105 and 107-111, relating to minimum nexus standards, and Part 3, relating to modifying and placing a cap on the first mortgage interest deduction, which takes effect July 1, 2010. Part IX, relating to the aircraft excise tax, takes effect January 1, 2011; and Part

XIV, relating to the temporary increase in the service B&O rate and the increase in the small business tax credit, which takes effect May 1, 2010.