
Ways & Means Committee

HB 2530

Brief Description: Improving accountability for tax preferences.

Sponsors: Representatives Carlyle, Hunter, Reykdal, Roberts and Pollet; by request of Department of Revenue.

Brief Summary of Bill

- Consolidates the annual survey and annual report into a single document.
- Requires the filing of an annual accountability report for all future tax preferences.
- Expires new tax preferences five years after enactment.
- Requires information on the amount of new capital investment in Washington in the annual accountability report.
- Requires the Department of Revenue to determine the relative tax burden for taxpayers claiming tax preferences.
- Requires the Joint Legislative Audit and Review Committee to review tax preferences every five years for those tax preferences that require an annual accountability report.

Hearing Date: 1/30/12

Staff: Rick Peterson (786-7150).

Background:

Washington State's tax revenue is derived from various excise taxes and the state property tax. The major excise taxes are the state sales and use tax and business and occupation tax. Washington law also provides numerous reductions in these various taxes through tax exemptions, deductions, credits, deferrals, and preferential tax rates. Collectively, these tax reductions are referred to as "tax preferences."

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 recent years, the Legislature has enacted or extended numerous tax preferences that require the annual reporting of information to the Department of Revenue (DOR) by the taxpayer. These documents are collectively referred to as annual accountability reports. A taxpayer submits the initial accountability report in the year following the year in which a tax preference, which is subject to reporting, is first claimed. Taxpayers must pay the tax associated with the tax preference if they fail to file a report.

There are two specific types of accountability documents—annual reports and annual surveys. (A major consolidation of the accountability reporting documents was done in 2010.) Both of these documents are fairly similar. Both documents require taxpayers to report the number of employment positions and certain types of wage and benefit information for the prior calendar year. One important difference between the annual report and the annual survey is that the annual survey also requires a taxpayer to report the amount of tax preference claimed in the prior year. This particular information is not required for the annual report. Another difference between the two documents relates to the confidentiality of the information contained in the document. For annual reports, all information may be disclosed. For annual surveys, the amount of the tax preference claimed in the prior year is not confidential and may be disclosed. Taxpayer with an amount of tax preference claimed of less than \$10,000 may request confidentiality. All other information in the annual survey is confidential. A taxpayer is required to submit an annual report or survey by April 30 of each year. The DOR prepares summary statistics of the data contained within the documents by October 1 of each year.

State law requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification serves the public interest. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling tax preferences, holding public hearings, and commenting on the reviews is assigned to the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The responsibility for conducting the reviews is assigned to the staff of the Joint Legislative Audit and Review Committee (JLARC).

The Commission develops a schedule to accomplish a review of tax preferences at least once every 10 years. The Commission is authorized to omit certain tax preferences from the schedule such as those required by constitutional law, the sales and use tax exemptions for machinery and equipment and food, the small business credit for the business and occupation tax, the property tax relief program for retired persons, and tax preferences that the Commission determines are a critical part of the tax structure.

Tax preferences that have a statutory expiration date are scheduled for review before the preference expires. Each year, the JLARC prepares a final report containing its recommendations as to whether tax preferences reviewed that year should be continued without modification, modified, or terminated. The fiscal committees of the Legislature are required to jointly hold a public hearing to consider the final report.

Summary of Bill:

The two types of annual accountability reports are consolidated into a single annual survey. All taxpayers currently filing an annual report will begin filing an annual survey beginning in 2013.

Taxpayers must file an annual survey for any tax preference enacted after the effective date of the bill unless otherwise provided in law.

Beginning with annual surveys submitted in 2013, all information contained in the survey is not confidential and may be disclosed. The confidentiality requirement for tax preferences of less than \$10,000 is eliminated.

The annual survey must include the amount of new capital investment in Washington. "Capital investment" means the cost of land, structures, and other property in Washington that is integral to the activities that qualify the business for the tax preference requiring a survey.

Using the information contained in the annual survey, the Department of Revenue is required to compute the relative tax burden for each taxpayer and the aggregate relative tax burden for all taxpayers claiming a particular tax preference. "Relative tax burden" is the ratio, measured as a percentage, between the amount of tax paid and the amount of tax that would have been paid without the application of the tax preference.

An automatic five-year expiration date applies to all tax preferences enacted after the effective date of the bill. This automatic five-year expiration date also applies to the continuation of a tax preference that is set to expire or the expansion of a previously enacted tax preference. A tax preference includes exemptions, deductions, credits, deferrals, reduced tax rates, and remittances or refunds of tax paid.

The Joint Legislative Audit and Review Committee (JLARC) is required to review a tax preference every five years if the tax preference requires an annual survey.

The JLARC is required to submit draft legislation whenever a tax preference review recommends a modification or termination of a tax preference.

The fiscal committees of the Legislature are required to jointly hold a public hearing no later than the end of the second week of a regular session regarding its most recent tax preference review.

Taxpayers that use the business and occupation tax deduction on compensation for providing mental health services under a government-funded program are no longer required to file an annual report.

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Numerous conforming amendments are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section five, relating to the new consolidated accountability survey, which takes effect January 1, 2013.