

HOUSE BILL REPORT

HB 1165

As Reported By House Committee On:

Finance

Title: An act relating to technical correction of excise and property tax statutes.

Brief Description: Making technical corrections to excise and property tax statutes.

Sponsors: Representatives Sherstad, Dickerson, Van Luven, L. Thomas and Mason; by request of Department of Revenue.

Brief History:

Committee Activity:

Finance: 1/31/95, 2/2/95 [DPS].

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives B. Thomas, Chairman; Boldt, Vice Chairman; Carrell, Vice Chairman; Morris, Ranking Minority Member; Campbell; Hymes; Mason; Mulliken; Pennington; Schoesler and Van Luven.

Staff: Rick Peterson (786-7150).

Background: Chapter 211 laws of 1994 (2SHB 1235) authorized the formation of a new type of business in Washington, the limited liability company. The limited liability company is a noncorporate entity that allows the owners to participate actively in management while providing them with limited liability.

The business and occupation tax is Washington's general business tax. The tax applies to persons and companies engaging in business activities. The various types of business organizations are defined by law and include, in part, individuals, joint ventures, copartnership, and corporations.

Sellers of items subject to retail sales tax are required by statute to collect the retail sales tax from the buyers and remit the tax to the state. The tax collected from the buyer is held in trust by the seller until paid over to the state. When a corporation stops doing business, the person with responsibility for the sales tax funds may be held personally responsible for any unpaid sales tax.

Purchasers of motor fuel may receive a refund of motor fuel taxes if the motor fuel is exported from Washington. The person claiming the refund must sign the export certificate. In the case of a corporation requesting a refund the export certificate must be signed by the proper corporate officer.

An annual excise tax is imposed for the privilege of using an aircraft in Washington. For purposes of this tax a person is defined to include a firm, partnership, or corporation.

Personal property owned by businesses is subject to property tax. Each year business entities are required to report the amount of personal property they own to the county assessor.

A provision of the Youth Violence Act (ESHB 2319) requires the Department of Revenue to provide the Department of Licensing a list of licensed gun dealers with gross receipts of less than the tax reporting threshold (\$12,000 on an annual basis) for the business and occupation tax. Substitute HB 2671 repealed the statute containing the \$12,000 tax reporting threshold and replaced it with a new section containing a small business tax credit.

The local sales and use tax is collected by the state together with the state sales tax. RCW 82.14.050 instructs the Department of Revenue to deposit the local sales and use tax into the local sales and use tax account. RCW 82.32.320 directs the Department of Revenue to turn over all receipts to the state treasurer. The statutes appear to be in conflict. By administrative practice the department first distributes the local sales and use tax to the local sales and use tax account and then transmits the remainder of the receipts to the state treasurer.

Summary of Substitute Bill: Limited liability companies are added to the list of organizations defined as persons or companies in the business and occupation tax law.

Managers of limited liability companies may be held personally responsible for any unpaid sales tax when the limited liability company stops doing business.

The proper manager or member of a limited liability company must sign the export certificate when requesting a refund of motor fuel taxes.

Limited liability companies are added to the list of persons subject to the aircraft excise tax.

Limited liability companies are added to the list of businesses required to report the amount of personal property they own to the county assessor.

The reference in the Youth Violence Act to the now repealed business and occupation tax reporting threshold is changed to \$12,000.

The statute requiring the Department of Revenue to transmit all receipts to the state treasurer is modified to allow the department to allocate payments among the applicable funds in a manner that minimizes administrative costs.

The Department of Revenue may adopt administrative rules necessary to implement the bill.

Substitute Bill Compared to Original Bill: The substitute bill deletes a section that had an erroneous cross reference.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: This bill contains only technical changes. There are no policy changes in the bill.

Testimony Against: None.

Testified: Ryan Spiller, Department of Revenue.