

HOUSE BILL REPORT

SHB 2745

As Passed House:

February 12, 1996

Title: An act relating to intangible personal property.

Brief Description: Clarifying the taxation of intangible personal property.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Horn, Lisk, Ballasiotes, L. Thomas, Backlund, Mastin, Reams, D. Schmidt, Delvin, Hankins, Foreman, Cooke, Mulliken, Blanton, Hymes, Thompson and Elliot).

Brief History:

Committee Activity:

Finance: 2/5/96 [DPS].

Floor Activity:

Passed House: 2/12/96, 74-22.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives B. Thomas, Chairman; Carrell, Vice Chairman; Boldt, Vice Chairman; Hymes; Mulliken; Pennington; Schoesler; Sheldon and Van Luven.

Minority Report: Do not pass. Signed by 3 members: Representatives Morris, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; and Mason.

Staff: Bob Longman (786-7139).

Background: All property in this state is subject to the property tax each year based on its value unless a specific exemption is provided by law. The state constitution defines "property" for tax purposes as "everything, whether tangible or intangible, subject to ownership." The constitution also states that "such property as the Legislature may by general laws provide shall be exempt from taxation."

Intangible property is the right of ownership in an asset that has no physical substance and is not susceptible to being perceived by the senses. Some types of intangible property are exempted from taxation: money, mortgages, notes, accounts, certificates

of deposit, tax certificates, judgments, government bonds and warrants, stocks and shares of private corporations, private nongovernmental personal service contracts, and private nongovernmental athletic or sports franchises.

Other types of intangible property are not exempt from taxation, such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, noncompete agreements, customer lists, and business goodwill.

Factors that affect the market value of real property or tangible personal property, such as location, zoning, or view, are sometimes referred to as "intangibles." However, these factors are not intangible property. These are merely items that buyers and sellers take into account in determining the market value of property. In contrast, intangible property can be bought and sold completely independently of other property.

Intangible assets are often difficult to identify, locate, and value. The correct treatment of intangible assets for property tax purposes is a matter of some controversy.

Summary of Bill: All intangible property is exempt from property tax. Intangible property includes, but is not limited to, the items exempt under current law and items such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, noncompete agreements, customer lists, good name, and integrity of a business.

For purposes of determining the market value of real property and tangible personal property, the presence of intangible assets shall be considered in determining the functional use for which the taxable property is employed. However, the specific identity of the user shall not be considered.

The market value of real property and tangible personal property shall reflect characteristics or attributes such as zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, and the availability of a skilled work force.

These provisions are effective for taxes levied for collection in 1997 and thereafter.

Appropriation: None.

Fiscal Note: Requested on February 1, 1996.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: It is not a desirable policy to list and assess separately intangible property. However, the presence of intangible assets can influence the market value of taxable property, and these influences should be taken into account for property tax valuations. This bill ensures that state assessments of utility property will follow the same standards as county assessments of other business properties in regard to intangibles, using generally accepted appraisal procedures and methodologies. Intangible property should not be lumped together with taxable property characteristics. Separate valuation of things like business goodwill would just be a guessing game.

Testimony Against: The language requiring intangibles to be "taken into account" is ambiguous. The bill is poorly drafted, with language added to wrong sections of the code. County assessors do not believe intangibles should be separately listed and assessed, but when intangibles are included under the income approach, they should not have to be subtracted from valuations. The language in this bill was never agreed to by the interim discussion group, and it is surprising to see it as a Department of Revenue recommendation. This bill is not ready for action. Study of this issue should continue.

Testified: Representative Jim Horn, prime sponsor; Len McComb, Department of Revenue (pro with striker); Will Rice, Department of Revenue (pro with striker); Tom Dooley, Association of Washington Businesses (pro); Mike Bernard, Madison Cooke (pro); Gary Smith, Independent Business Association (pro); Leo Bowman (pro); Carolyn Logue, Independent Business Association (pro); Steve Seward, Chair of Intangible Tax Committee (pro); Barry Bede, United States Ecology (pro); Cherie Meyers, Safeway (pro); Ruth Scott, Washington Retail Association (pro); Dave Wood, People for Fair Taxes (pro); and Paul Easter, Grays Harbor Assessor (con).