
SENATE BILL 5728

State of Washington **54th Legislature** **1995 Regular Session**

By Senators Gaspard, McDonald, Wojahn, Rinehart, Rasmussen and Winsley

Read first time 02/02/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to business and occupation tax of international
2 investment management companies; amending RCW 82.04.2201 and 82.04.290;
3 adding a new section to chapter 82.04 RCW; providing an effective date;
4 and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
7 to read as follows:

8 For purposes of RCW 82.04.290(3):

9 (1) A person is engaged in the business of providing international
10 investment management services, if:

11 (a) Such person is engaged primarily in the business of providing
12 investment management services; and

13 (b) At least ten percent of the gross income of such person is
14 derived from providing investment management services to any of the
15 following: (i) Persons or collective investment funds residing outside
16 the United States; or (ii) persons or collective investment funds with
17 at least ten percent of their investments located outside the United
18 States.

1 (2) "Investment management services" means investment research,
2 investment consulting, portfolio management, fund administration, fund
3 distribution, investment transactions, or related investment services.

4 (3) "Collective investment fund" includes:

5 (a) A mutual fund or other regulated investment company, as defined
6 in section 851(a) of the internal revenue code of 1986, as amended;

7 (b) An "investment company," as that term is used in section 3(a)
8 of the Investment Company Act of 1940, as well as any entity that would
9 be an investment company for this purpose but for the exemptions
10 contained in section 3(c)(1) or (11);

11 (c) An "employee benefit plan," which includes any plan, trust,
12 commingled employee benefit trust, or custodial arrangement that is
13 subject to the Employee Retirement Income Security Act of 1974, as
14 amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections
15 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the
16 internal revenue code of 1986, as amended, or a similar plan maintained
17 by a state or local government, or a plan, trust, or custodial
18 arrangement established to self-insure benefits required by federal,
19 state, or local law;

20 (d) A fund maintained by a tax-exempt organization, as defined in
21 section 501(c)(3) of the internal revenue code of 1986, as amended, for
22 operating, quasi-endowment, or endowment purposes;

23 (e) Funds that are established for the benefit of such tax-exempt
24 organizations, such as charitable remainder trusts, charitable lead
25 trusts, charitable annuity trusts, or other similar trusts; or

26 (f) Collective investment funds similar to those described in (a)
27 through (e) of this subsection created under the laws of a foreign
28 jurisdiction.

29 (4) Investments are located outside the United States if the
30 underlying assets in which the investment constitutes a beneficial
31 interest reside or are created, issued or held outside the United
32 States.

33 **Sec. 2.** RCW 82.04.2201 and 1994 sp.s. c 10 s 1 are each amended to
34 read as follows:

35 There is levied and shall be collected for the period July 1, 1993,
36 through June 30, 1997, from every person for the act or privilege of
37 engaging in business activities, as a part of the tax imposed under RCW
38 82.04.220 through 82.04.280 and 82.04.290 (3) and (4), except RCW

1 82.04.250(1) and 82.04.260(15), an additional tax equal to 4.5 percent
2 multiplied by the tax payable under those sections.

3 To facilitate collection of these additional taxes, the department
4 of revenue is authorized to adjust the basic rates of persons to which
5 this section applies in such manner as to reflect the amount to the
6 nearest one-thousandth of one percent of the additional tax hereby
7 imposed, adjusting ten-thousandths equal to or greater than five ten-
8 thousandths to the greater thousandth.

9 **Sec. 3.** RCW 82.04.290 and 1993 sp.s. c 25 s 203 are each amended
10 to read as follows:

11 (1) Upon every person engaging within this state in the business of
12 providing selected business services other than or in addition to those
13 enumerated in RCW 82.04.250 or 82.04.270; as to such persons the amount
14 of tax on account of such activities shall be equal to the gross income
15 of the business multiplied by the rate of 2.5 percent.

16 (2) Upon every person engaging within this state in banking, loan,
17 security, investment management, investment advisory, or other
18 financial businesses, other than or in addition to those enumerated in
19 subsection (3) of this section; as to such persons, the amount of the
20 tax with respect to such business shall be equal to the gross income of
21 the business, multiplied by the rate of 1.70 percent.

22 (3) Upon every person engaging within this state in the business of
23 providing international investment management services, as to such
24 persons, the amount of tax with respect to such business shall be equal
25 to the gross income or gross proceeds of sales of the business
26 multiplied by a rate of 0.275 percent.

27 (4) Upon every person engaging within this state in any business
28 activity other than or in addition to those enumerated in RCW
29 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and
30 82.04.280, and subsections (1) (~~and~~), (2), and (3) of this section;
31 as to such persons the amount of tax on account of such activities
32 shall be equal to the gross income of the business multiplied by the
33 rate of 2.0 percent. This section includes, among others, and without
34 limiting the scope hereof (whether or not title to materials used in
35 the performance of such business passes to another by accession,
36 confusion or other than by outright sale), persons engaged in the
37 business of rendering any type of service which does not constitute a
38 "sale at retail" or a "sale at wholesale." The value of advertising,

1 demonstration, and promotional supplies and materials furnished to an
2 agent by his principal or supplier to be used for informational,
3 educational and promotional purposes shall not be considered a part of
4 the agent's remuneration or commission and shall not be subject to
5 taxation under this section.

6 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and shall take
9 effect July 1, 1995.

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