

HB 2315

Bill Analysis

January 14, 1998

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

Bill Sponsors: Representative Thompson, Mulliken, B. Thomas and Dunshee; by request of Department of Revenue

Staff: Linda Brooks (786-7153)

Background: Some excise and property tax statutes cite specific legislative acts rather than the codification of these acts into the statutes. Statutes also contain some out-of-sequence references to other statutes and outdated provisions. For example, some tax laws refer to the federal Interstate Commerce Commission which no longer exists. Other tax statutes have expired such as the \$1 tire replacement tax which ended in 1994. Additionally, the Department of Revenue (DOR) no longer issues warrants and orders under an "official seal," but statutes still refer to the use of an official seal.

The general B&O wholesaling tax rate is 0.484 percent, but there are some lower rates. One lower rate is an 0.011 percent B&O wholesaling rate for ten types of agricultural commodities. This lower 0.011 percent rate applies, however, only to commodities that have not been manufactured or processed. The DOR has decided that processing means the same thing as manufacturing.

A statute enacted last session states that money received from a trust account is not subject to B&O taxes, if the account operates in a manner consistent with how mortgage brokers must handle borrowers' money in trust for payment of third party costs. Third party costs are expenses for services such as appraisal and credit check fees. The statute could be interpreted to mean that anyone receiving trust money would owe no B&O taxes. For example, an appraiser might not owe B&O taxes on his or her earnings, if payment to the appraiser was made from one of these trust accounts.

Other legislation from last year dealt with public assembly halls and meeting places. Before 1997, the property tax statutes said that public assembly halls and meeting places would not lose their property tax exemptions if they were:

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- Utilized for three days each year for private business activities; or
 - Used inadvertently for a private business activity as long as the inadvertent use was not repeated in the same or subsequent year.

Last session the Legislature increased the three days allowed for private business activities to seven days.

Several different types of nonprofit organizations qualify for property tax exemptions. The term "nonprofit" is defined for some of these organizations, but the meaning of nonprofit is ambiguous for others.

Summary of Bill: The following technical corrections are made to excise and property tax statutes:

- Replaces references to specific legislative acts with references to title or chapter where these acts are codified into the statutes;
- Reorders cites to other statutes for correct numerical sequence;
- Updates references to the defunct Interstate Commerce Commission by referring instead to the Interstate Commerce Commission and its successor agency;
- Deletes expired statutory provisions;
- Omits references to the use of an official Department of Revenue seal;
- Removes the word "processed" from the statute providing a 0.011 percent B&O wholesaling tax rate for certain agricultural commodities that are not manufactured or processed;
- Specifies that only mortgage brokers are exempt from paying B&O taxes on money received from borrowers and held in trust for payment of third party costs and makes this change apply retroactively;
- Deletes language allowing a public assembly hall to retain its property tax-exempt status when a hall is inadvertently used for a private business activity; and
- Makes all nonprofit organizations that are eligible for property tax exemptions subject to the same definition of "nonprofit."

Appropriations:

Fiscal Note: Available

Effective Date: If enacted, most sections of the bill take effect 90 days after adjournment,

but sections 1 and 4 apply retroactively to July 27, 1997