

HOUSE BILL REPORT

HB 2324

As Reported By House Committee On:

Finance

Title: An act relating to a legal presumption in favor of persons disputing a tax obligation.

Brief Description: Establishing a legal presumption in favor of persons disputing tax obligations.

Sponsors: Representatives B. Thomas, Lambert and Dyer.

Brief History:

Committee Activity:

Finance: 1/20/98, 2/2/98 [DPS].

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; Mulliken, Vice Chairman; Boldt; Kastama; Morris; Pennington; Schoesler and Thompson.

Minority Report: Do not pass. Signed by 5 members: Representatives Dunshee, Ranking Minority Member; Dickerson, Assistant Ranking Minority Member; Butler; Conway and Mason.

Staff: Bob Longman (786-7139).

Background: Taxpayers have certain rights and responsibilities set forth in statute, state agency rules, and case law. For example, by statute taxpayers have the right to be treated equitably, and with dignity and respect; to rely on written advice from the Department of Revenue; to receive clear and current tax instructions, forms, etc.; to receive notice of assessments; to receive due process in reviews and appeals; to receive relief and redress when tax laws are found unconstitutional; and to receive protection from public inquiry regarding financial and business information. Taxpayer responsibilities include keeping accurate records, filing accurate returns, paying taxes on time, and responding to communications from the department in a timely manner.

The courts have developed several principles for interpretation of statutes in general and tax statutes in general. For example, courts do not construe or interpret a statute when its language is plain. Statutory words are given their ordinary meaning, unless a particular definition is provided in statute. A statute must be construed to avoid strained results or absurd consequences. Tax exemptions are construed narrowly, and the burden of establishing an exemption falls on the taxpayer.

Summary of Substitute Bill: General rules are provided for the interpretation and application of taxes. Persons and activities are not subject to tax unless a tax has been clearly and expressly imposed by law. Laws imposing taxes must be strictly construed. A governmental entity claiming that a tax obligation has the burden of proving that obligation. A tax must not be enlarged by construction or interpretation.

A governmental entity seeking to collect a disputed tax obligation must make available to the taxpayer upon request all records, documents, and facts necessary to determine the historical background, intent, interpretation, or implementation of the law imposing the tax.

A person disputing a tax obligation has a similar duty to provide property, documents, and facts necessary for determination of taxable status.

Substitute Bill Compared to Original Bill: The substitute bill does not change the burden of proof for exemptions, deductions, and credits.

Appropriation: None.

Fiscal Note: Requested on January 12, 1998.

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

Testimony For: Government often has the home court advantage on taxes. This bill makes clear that government cannot tax beyond what the Legislature has provided. This helps small taxpayers without the resources to hire lawyers to fight government. Tacoma's recent attempt to tax internet service providers is an example of government attempting to go beyond the clear authority provided by the Legislature. Taxpayers should be considered innocent until proven guilty.

Testimony Against: The original bill could result in expansion of the intangible property tax far beyond what the Legislature intended. The attorney general wrote an opinion that relies on narrow construction of the exemption. Cities are concerned about the original bill changing the burden of taxpayers to show they are entitled to exemptions, deductions, and credits.

Testified: Jim King, WA Drywall Coalition (pro); Kevin Jewkes, Jewkes Drywall (pro); Gayle Arruda, Drywall Etc. (pro); Bill Fritz, WA Food Processors (pro); Scott Noble, WSACA (con); and Ron Rosenbloom, AWC (con).