

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2641

Chapter 150, Laws of 2002

57th Legislature
2002 Regular Session

BUSINESS AND OCCUPATION TAX--DEDUCTIONS

EFFECTIVE DATE: 7/1/02

Passed by the House March 11, 2002
Yeas 94 Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 7, 2002
Yeas 39 Nays 10

BRAD OWEN
President of the Senate

Approved March 26, 2002

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2641** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER
Chief Clerk

FILED

March 26, 2002 - 12:22 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2641

AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Representatives Gombosky, Cairnes, Kessler, Morris, Berkey, Edwards, Kenney, Linville, Ogden and Conway; by request of Governor Locke

Read first time 01/23/2002. Referred to Committee on Finance.

1 AN ACT Relating to implementing the recommendations of the
2 investment income tax deduction task force for the business and
3 occupation tax; amending RCW 82.04.4281; creating a new section; and
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the application
7 of the business and occupation tax deductions provided in RCW
8 82.04.4281 for investment income of persons deemed to be "other
9 financial businesses" has been the subject of uncertainty, and
10 therefore, disagreement and litigation between taxpayers and the state.
11 The legislature further finds that the decision of the state supreme
12 court in *Simpson Investment Co. v. Department of Revenue* could lead to
13 a restrictive, narrow interpretation of the deductibility of investment
14 income for business and occupation tax purposes. As a result, the
15 legislature directed the department of revenue to work with affected
16 businesses to develop a revision of the statute that would provide
17 certainty and stability for taxpayers and the state. The legislature
18 intends, by adopting this recommended revision of the statute, to

1 provide a positive environment for capital investment in this state,
2 while continuing to treat similarly situated taxpayers fairly.

3 **Sec. 2.** RCW 82.04.4281 and 1980 c 37 s 2 are each amended to read
4 as follows:

5 (1) In computing tax there may be deducted from the measure of tax:

6 (a) Amounts derived (~~by persons, other than those engaging in~~
7 ~~banking, loan, security, or other financial businesses,~~) from
8 investments (~~or the use of money as such, and also~~);

9 (b) Amounts derived as dividends or distributions from capital
10 account by a parent from its subsidiary (~~corporations~~) entities; and

11 (c) Amounts derived from interest on loans between subsidiary
12 entities and a parent entity or between subsidiaries of a common parent
13 entity, but only if the total investment and loan income is less than
14 five percent of gross receipts of the business annually.

15 (2) The following are not deductible under subsection (1)(a) of
16 this section:

17 (a) Amounts received from loans, except as provided in subsection
18 (1)(c) of this section, or the extension of credit to another,
19 revolving credit arrangements, installment sales, the acceptance of
20 payment over time for goods or services, or any of the foregoing that
21 have been transferred by the originator of the same to an affiliate of
22 the transferor; or

23 (b) Amounts received by a banking, lending, or security business.

24 (3) The definitions in this subsection apply only to this section.

25 (a) "Banking business" means a person engaging in business as a
26 national or state-chartered bank, a mutual savings bank, a savings and
27 loan association, a trust company, an alien bank, a foreign bank, a
28 credit union, a stock savings bank, or a similar entity that is
29 chartered under Title 30, 31, 32, or 33 RCW, or organized under Title
30 12 U.S.C.

31 (b) "Lending business" means a person engaged in the business of
32 making secured or unsecured loans of money, or extending credit, and
33 (i) more than one-half of the person's gross income is earned from such
34 activities and (ii) more than one-half of the person's total
35 expenditures are incurred in support of such activities.

36 (c) The terms "loan" and "extension of credit" do not include
37 ownership of or trading in publicly traded debt instruments, or
38 substantially equivalent instruments offered in a private placement.

1 (d) "Security business" means a person, other than an issuer, who
2 is engaged in the business of effecting transactions in securities as
3 a broker, dealer, or broker-dealer, as those terms are defined in the
4 securities act of Washington, chapter 21.20 RCW, or the federal
5 securities act of 1933. "Security business" does not include any
6 company excluded from the definition of broker or dealer under the
7 federal investment company act of 1940 or any entity that is not an
8 investment company by reason of sections 3(c)(1) and 3(c)(3) through
9 3(c)(14) thereof.

10 NEW SECTION. Sec. 3. This act takes effect July 1, 2002.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor March 26, 2002.

Filed in Office of Secretary of State March 26, 2002.