
HOUSE BILL 1258

State of Washington

54th Legislature

1995 Regular Session

By Representatives B. Thomas, Horn, Ebersole, Thompson, Fuhrman, Mielke, Johnson, Van Luven, Pelesky, Hickel, Huff, Dyer, Robertson, Mitchell, L. Thomas, Beeksma, Schoesler, Carrell, McMahan, Boldt, Talcott, Smith and Sehlin

Read first time 01/18/95. Referred to Committee on Finance.

1 AN ACT Relating to apportionment of taxable income of investment
2 management companies; amending RCW 82.04.460; providing an effective
3 date; and declaring an emergency.

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

5 **Sec. 1.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to read
6 as follows:

7 (1) Any person rendering services taxable under RCW 82.04.290 and
8 maintaining places of business both within and without this state which
9 contribute to the rendition of such services shall, for the purpose of
10 computing tax liability under RCW 82.04.290, apportion to this state
11 that portion of his gross income which is derived from services
12 rendered within this state. Where such apportionment cannot be
13 accurately made by separate accounting methods, the taxpayer shall
14 apportion to this state that proportion of his total income which the
15 cost of doing business within the state bears to the total cost of
16 doing business both within and without the state.

17 (2) Notwithstanding the provision of subsection (1) of this
18 section, persons doing business both within and without the state who
19 receive gross income from service charges, as defined in RCW 63.14.010

1 (relating to amounts charged for granting the right or privilege to
2 make deferred or installment payments) or who receive gross income from
3 engaging in business as financial institutions within the scope of
4 chapter 82.14A RCW (relating to city taxes on financial institutions)
5 shall apportion or allocate gross income taxable under RCW 82.04.290 to
6 this state pursuant to rules promulgated by the department consistent
7 with uniform rules for apportionment or allocation developed by the
8 states.

9 (3) Notwithstanding the provisions of subsections (1) and (2) of
10 this section, persons engaging in the business of providing investment
11 management, investment consulting, fund administration, or fund
12 distribution services to a collective investment fund shall apportion
13 or allocate gross income taxable under RCW 82.04.290 to this state by
14 multiplying the total gross income from engaging in such business by a
15 fraction, the numerator of which is the average of the beginning-of-
16 the-year and end-of-the-year number of units owned by collective
17 investment fund unit holders domiciled in this state and the
18 denominator of which is the average of the beginning-of-the-year and
19 end-of-the-year number of units owned by collective investment fund
20 unit holders everywhere. In the case of an employee benefit plan, the
21 plan shall constitute the unit holder for purposes of this subsection.

22 For purposes of this subsection, the term collective investment
23 fund shall include: (a) A mutual fund or other regulated investment
24 company, as defined in section 851(a) of the internal revenue code of
25 1986, as amended; (b) an "investment company," as that term is used in
26 section 3(a) of the investment company act of 1940, as well as any
27 entity that would be an investment company for this purpose but for the
28 exemptions contained in sections 3(c)(1) or 3(c)(11), or but for the
29 fact that it is organized under the laws of a foreign country; (c) an
30 "employee benefit plan," which includes any plan, trust, commingled
31 employee benefit trust, or custodial arrangement that is subject to the
32 employee retirement income security act of 1974, as amended, 29 U.S.C.
33 Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408,
34 457, and 501(c)(9) and (c) (17) through (c)(23) of the internal revenue
35 code of 1986, as amended, or a similar plan maintained by a state or
36 local government, or a plan, trust, or custodial arrangement
37 established to self-insure benefits required by federal, state, or
38 local law; (d) a fund maintained by a tax exempt organization, as
39 defined in section 501(c)(3) of the internal revenue code of 1986, as

1 amended, for operating, quasi-endowment, or endowment purposes; or (e)
2 funds that are established for the benefit of such tax exempt
3 organizations, such as charitable remainder trusts, charitable lead
4 trusts, charitable annuity trusts, or other similar trusts.

5 (4) The department shall by rule provide a method or methods of
6 apportioning or allocating gross income derived from sales of telephone
7 services taxed under this chapter, if the gross proceeds of sales
8 subject to tax under this chapter do not fairly represent the extent of
9 the taxpayer's income attributable to this state. The rules shall be,
10 so far as feasible, consistent with the methods of apportionment
11 contained in this section and shall require the consideration of those
12 facts, circumstances, and apportionment factors as will result in an
13 equitable and constitutionally permissible division of the services.

14 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect July 1, 1995.

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