

SHB 1357 - S AMD 827
By Senator Fraser

NOT ADOPTED

1 On page 6, line 21, after "RCW 82.04.2635(2)." insert the following:

2 "NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW
3 to read as follows:

4 (1) Persons providing both physical fitness services and amusement
5 and recreation services shall elect either to report their entire gross
6 income subject to tax under this chapter from initiation fees and dues
7 and other charges for general use or access of facilities as subject to
8 the tax imposed by RCW 82.04.250(1) or to allocate such income as
9 subject to the taxes imposed by RCW 82.04.290(2) and 82.04.250(1) as
10 provided in subsection (2) of this section.

11 (2) (a) To determine the amount of gross income subject to the tax
12 imposed by RCW 82.04.290(2) and 82.04.250(1), persons must allocate
13 their gross income subject to tax under this chapter from initiation
14 fees and dues and other charges for general use or access of facilities
15 using a ratio. The numerator of this ratio shall be the square footage
16 of facilities devoted exclusively to providing members or customers
17 with physical fitness services multiplied by a factor determined by the
18 department. This factor is to recognize the difference in income
19 generated per square foot of areas devoted exclusively to providing
20 members or customers with physical fitness services and income
21 generated per square foot of other areas included in the ratio based on
22 industry averages. The department shall determine the factor based on
23 the most recent available data and shall inform taxpayers of its
24 determination. This factor shall be updated on July first of each
25 even-numbered year beginning on July 1, 2006. The denominator of this
26 ratio shall be the numerator plus the difference between the total
27 square footage of facilities and the square footage of facilities
28 devoted exclusively to providing members or customers with physical
29 fitness services.

30 For purposes of this ratio, the following areas are to be excluded
31 from the numerator and denominator if used exclusively for the purposes
32 that such areas are customarily used for:

- 1 (i) Lockers, showers, and hallways;
- 2 (ii) Child care center;
- 3 (iii) Sales of tangible personal property such as sales in a pro
4 shop;
- 5 (iv) Lounge, snack bar, or other food and beverage area;
- 6 (v) Areas that may only be accessed or utilized by members or
7 customers for a charge separate and distinct from initiation fees,
8 dues, or a charge for general use or access of the facilities, such as
9 may be the case for areas dedicated to physical therapy, tanning,
10 massage, or day spa services.
- 11 (vi) Meeting rooms;
- 12 (vii) Parking facilities and picnic areas; and
- 13 (viii) Administrative offices, laundry facilities, customer service
14 desks, and other areas utilized only by employees.

15 (b) The amount of gross income subject to the tax imposed by RCW
16 82.04.290(2) is the product of the ratio described in (a) of this
17 subsection (2) and the amount of gross income subject to tax under this
18 chapter from initiation fees and dues and other charges for general use
19 or access of facilities. The balance of the gross income subject to
20 tax under this chapter from initiation fees and dues and other charges
21 for general use or access of facilities shall be subject to the tax
22 imposed by RCW 82.04.250(1).

23 (c) Once a person has made an election, the person must report tax
24 liability consistent with that election for at least twelve consecutive
25 months. A person may change an election prospectively only, effective
26 on the first day of a calendar quarter.

27 (3) If the persons described in subsection (1) of this section
28 receive income from sources other than those described in subsection
29 (1) of this section or provide services other than those named in
30 subsection (1) of this section, that income and those services are
31 subject to tax as otherwise provided in this chapter.

32 (4) This section does not apply to any person that provides members
33 or customers with access to outdoor golf range or golf course
34 facilities.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.08 RCW
36 to read as follows:

37 Notwithstanding anything in this chapter to the contrary, in the
38 case of a person providing both physical fitness services and amusement

1 and recreation services who is required to make an election under
2 section 2 of this act, the selling price for purposes of RCW 82.08.020
3 shall be the amount subject to tax imposed by RCW 82.04.250(1)."

4 Renumber the sections consecutively and correct any internal
5 references accordingly.

« END ---

EFFECT: Provides an allocation method for businesses that provide both physical fitness services and amusement and recreation services to clarify what portions of profits should be classified as retail services and what should be classified as general services.