

# HOUSE BILL REPORT

## HB 1442

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**As Reported by House Committee On:**  
Economic Development, Agriculture & Trade

**Title:** An act relating to revising excise tax provisions to encourage small business.

**Brief Description:** Revising excise tax provisions to encourage small business.

**Sponsors:** Representatives Kilmer, Haler, Linville, Morris, Grant, Clibborn, Strow, Williams, Sells, Morrell, Conway, Chase, Fromhold, P. Sullivan, Takko, Green, Springer and Simpson; by request of Governor Gregoire.

**Brief History:**

**Committee Activity:**

Economic Development, Agriculture & Trade: 2/4/05, 2/15/05 [DPS].

**Brief Summary of Substitute Bill**

- Exempts persons from registering with the Department of Revenue if the value of products, gross proceeds of sales, or the gross income of the business from all taxable activities under the business and occupation (B&O) tax or the gross income of the business taxable under the public utilities tax is less than \$28,000 per year.
- Increases the B&O credit to \$70 per month.
- Relieves a person from the payment of B&O taxes if the value of the products, gross proceeds of sales, or gross income of the business from all taxable activities under the B&O tax is less than \$56,000 per year.

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**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT, AGRICULTURE & TRADE**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Linville, Chair; Pettigrew, Vice Chair; Kristiansen, Ranking Minority Member; Skinner, Assistant Ranking Minority Member; Blake, Buri, Chase, Clibborn, Condotta, Grant, Haler, Holmquist, Kenney, Kilmer, Kretz, McCoy, Morrell, Newhouse, Quall, Strow, P. Sullivan and Wallace.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Dunn.

**Staff:** Tracey Taylor (786-7196).

## **Background:**

All businesses must register with the Department of Revenue (DOR) if the business is required to collect sales tax or the business is required to pay any other taxes or fees to the DOR. However, if the business has a gross income of less than \$12,000 per year under both the business and occupation (B&O) tax and the public utilities tax and the business is not otherwise required to collect or pay any tax to the DOR, the business is not required to register with the DOR.

In addition, businesses that have products, gross proceeds of sales or gross business income of less than \$28,000 are not required to file a return with the DOR.

### Business and Occupation Tax

Washington's B&O tax is the second largest tax source for the state. In Fiscal Year 2003, B&O tax collection totaled \$1.923 billion which represented approximately 17 percent of state revenue sources within the State General Fund. Almost all businesses located or doing business in the state of Washington are subject to the state B&O tax, including corporations, partnerships, sole proprietors and nonprofit organizations.

Washington's B&O tax is calculated on gross income from business activities in the state. There are no deductions from the B&O tax for labor, materials, taxes or other costs of doing business. However, some businesses may qualify for certain exemptions, deductions or credits. An exempted activity is not subject to the B&O tax and is not reported on the Combined Excise Tax Return (CETR). Exempted activities include raising and selling plantation Christmas trees at wholesale; sales for fund-raising of certain nonprofit organizations; international banking facilities; and growing, raising or producing agricultural products. Unlike exemptions, deductions must first be reported on a business' CETR as part of the business' gross income, then taken as a deduction. Allowable deductions include bad debts; freight and delivery costs incurred by a Washington manufacturer for out-of-state shipments; and sales made in Washington by an out-of-state seller without activities in Washington that establish, maintain, or facilitate a market for its products or services. Credits are amounts that have been paid to the DOR which are either not due or are granted by the Legislature for a specific purpose. Credits are subtracted from the B&O tax due on the CETR and include the multiple activities tax credit; the high technology B&O tax credit and the small business B&O tax credit.

Business and occupation tax rates and classifications vary according to the type of business activity. The major B&O tax classifications are retailing, wholesaling, manufacturing and service and other activities.

### Public Utilities Tax

In lieu of the B&O tax, gross income derived from the utility operation of public and privately owned utilities is subject to the public utilities tax. Unlike the B&O tax which pyramids, the public utility tax applies only on sales to consumers. Five different rates apply depending on the specific utility activity: distribution of water; generation or distribution of electrical power; telegraph companies, distribution of natural gas, and the collection of sewage; urban

transportation and watercraft vessels under 65 feet in length; and railroads, railroad car companies, motor transportation and all other public service businesses.

Like the B&O tax, the public utilities tax is subject to exemptions, deductions and credits. Exemptions and credits are available for: income less than \$500 per month; credit for one-half contributions made to rural electric utility economic development projects; and the income of small irrigation districts. Examples of deductions include: purchases for resale, cash discounts and credit losses; income from interstate transportation of persons or property; and distribution of water by nonprofit water associations.

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**Summary of Substitute Bill:**

A person is not required to register with the DOR if: a person's value of products, gross proceeds of sales or gross income of the business, from all taxable activities under the B&O tax, is less than \$28,000 per year; or the person's gross income from the business from all taxable activities under the public utilities tax is less than \$28,000.

For reporting periods ending after July 1, 2005, the maximum amount of the B&O tax credit allowed for a taxpayer is increased from \$35 per month to \$70 per month.

A person is not required to file tax returns for the B&O tax, if the person's value of products, gross proceeds of sales or gross income of the business from all business activities taxable under the B&O tax is less than \$56,000 per year.

**Substitute Bill Compared to Original Bill:**

The substitute increases the registration exemption from less than \$20,000 in product value, gross sales proceeds or gross business income to less than \$28,000.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect on July 1, 2005.

**Testimony For:** A small business in Washington faces a legitimate challenge in the B&O tax structure which does not consider the fact that a business might not be breaking even before imposing its tax liability. It is imperative that we help these people. The Tax Structure Committee recommended increasing the registration exemption threshold from less than \$12,000 to less than \$20,000 in product value, gross sales proceeds or gross business income. This bill also makes a strong statement to small businesses that they are important to this Legislature, the Governor and the state.

**Testimony Against:** None.

**Persons Testifying:** Representative Kilmer, prime sponsor; Representative Haler; Tim Strege, William Factory Small Business Incubator; Scott Merriman, Office of Financial Management; and Ron Newbry.

**Persons Signed In To Testify But Not Testifying:** None.