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SENATE BILL 5855

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Keiser, Hatfield, and Litzow

Read first time 02/25/13. Referred to Committee on Ways & Means.

1 AN ACT Relating to providing a business and occupation tax  
2 exemption for amounts received by hotel management companies for  
3 covered employee costs; and adding a new section to chapter 82.04 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
6 to read as follows:

7 (1) This chapter does not apply to amounts received by a hotel  
8 management company from a hotel owner for covered employee costs.

9 (2) For the purposes of this section, the following definitions  
10 apply:

11 (a) "Covered employee" means a person who meets all of the  
12 following conditions:

13 (i) The person has an employment relationship with a hotel  
14 management company providing hotel operations, management, and/or  
15 promotional services to a hotel owner;

16 (ii) The person works primarily at a hotel or associated facility  
17 of the hotel owner; and

18 (iii) The person's duties primarily consist of activities that  
19 directly or indirectly support the operations, management, and/or

1 promotion of the hotel and associated facilities, including without  
2 limitation renting property units, operating and maintaining the hotel  
3 and associated facilities, collecting fees, and hotel and facilities  
4 promotion.

5 (b) "Covered employee costs" means the actual cost of wages and  
6 salaries, benefits, workers' compensation, payroll taxes, withholding,  
7 or other assessments paid to or on behalf of a covered employee by the  
8 hotel management company pursuant to a hotel management services  
9 agreement, including without limitation, all amounts paid in cash or in  
10 kind by the hotel management company (i) that are treated for tax  
11 purposes as constituting wages or fringe benefits of a covered  
12 employee, (ii) that are contributions to pensions plans for the benefit  
13 of a covered employee, (iii) that are contributions to insurance plans  
14 for the benefit of a covered employee, and (iv) that are payments  
15 required under collective bargaining agreements for the benefit of a  
16 covered employee. For purposes of this section only, covered employee  
17 costs also include taxes or other governmental assessments imposed on  
18 the hotel management company as a result of the employment of a covered  
19 employee.

20 (c) "Hotel management services agreement" means a contract by and  
21 between a hotel owner and a hotel management company under which:

22 (i) The services provided to the hotel owner primarily relate to  
23 the operations, management, and/or promotion of the hotel or associated  
24 facilities including, without limitation, marketing and reservations,  
25 recruitment and supervision of persons operating the hotel and  
26 facilities, centralized services generally supportive of the hotel and  
27 facilities, or any other activity that directly or indirectly supports  
28 the operations, management, and/or promotion of the hotel and  
29 associated facilities;

30 (ii) The covered employee costs are funded by the hotel owner  
31 through a separate account used exclusively to fund covered employee  
32 costs and, at the option of the hotel owner, other costs associated  
33 with the operation of the hotel, which account is in the name of, and  
34 under the taxpayer identification number of, the hotel owner, but for  
35 which the hotel management company may have signing authority;

36 (iii) The hotel management company is required to pay the covered  
37 employee costs and must use the funds in the account established under

1 (c)(ii) of this subsection to either make such payments or recover the  
2 costs of making such payments; and

3 (iv) The hotel management company does not receive any markup  
4 calculated with respect to the amount of the covered employee costs  
5 paid into the account established under (c)(ii) of this subsection.

6 (d) "Hotel management company" means any person engaged in the  
7 business of providing operations, management, and/or promotional  
8 services under a hotel management services agreement and:

9 (i) More than fifty percent of the employees providing services at  
10 a hotel and associated facilities of the hotel owner are covered  
11 employees; and

12 (ii) The hotel management company is not providing staffing  
13 services as defined under RCW 82.04.540(3)(h).

14 (e) "Hotel owner" means any person that owns or leases a hotel, as  
15 well as any asset management company acting on behalf of such a person.

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