

HOUSE BILL REPORT

HB 1059

As Reported by House Committee On:

Finance
Appropriations

Title: An act relating to extending the business and occupation tax return filing due date for annual filers.

Brief Description: Extending the business and occupation tax return filing due date for annual filers.

Sponsors: Representatives Van Werven, Kraft, Kilduff, Chambers, Eslick, Vick and Leavitt.

Brief History:

Committee Activity:

Finance: 1/17/19, 2/5/19 [DPS];

Appropriations: 2/25/19, 2/26/19 [DP2S(w/o sub FIN)].

Brief Summary of Second Substitute Bill

- Extends the business and occupation tax filing deadline for annual filers to April 15.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Morris, Orwall, Springer, Stokesbary, Vick and Wylie.

Staff: Tracey O'Brien (786-7152).

Background:

Business and Occupation Tax.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any

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deduction for the costs of doing business. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

A business does not have to file an annual B&O tax return if the business does not owe other taxes or fees to the Department of Revenue (DOR) and has annual gross proceeds of sales, gross income, or value of products for all B&O tax classifications of less than \$28,000 per year, or less than \$46,667 if at least 50 percent of its taxable income is from services or activities not classified elsewhere.

Payment of taxes, including B&O taxes, along with reports and returns, are due monthly within 25 days after the end of the month in which taxable activities occur. The DOR may relieve a taxpayer or class of taxpayers from the monthly remittance and reporting requirements and allow longer reporting periods. The DOR allows quarterly and annual filing as well. Filing frequency is assigned based on a business's estimated annual income.

Independent Contractors.

Businesses that hire an independent contractor must have them complete the Internal Revenue Service (IRS) Form W-9 and provide their taxpayer identification number (TIN). A TIN may be either a Social Security number or an employer identification number. If a business pays someone who is not an employee, such as an independent contractor, \$600 or more during a tax year, the business must complete an IRS Form 1099-MISC. A copy of the Form 1099-MISC must be provided to the independent contractor by January 31 of the year following payment. In addition, the business must send a copy of the Form 1099-MISC to the IRS. There are exceptions to the Form 1099-MISC requirement, including payments made to a corporation, payments for merchandise, and payments to tax-exempt organizations.

Summary of Substitute Bill:

Payment of B&O taxes, along with reports and returns, are due from annual filers on or before April 15 immediately following the period covered by the return.

Substitute Bill Compared to Original Bill:

The due date is changed from March 1 to April 15.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Annual filers tend to be the smaller taxpayers who do not have significant income, but must file an annual B&O return. These taxpayers are often independent contractors who rely on other businesses to send them their 1099s in a timely fashion. Currently, the annual filing deadline is January 31; however due to federal deadlines, many taxpayers do not receive their 1099s until February or March. As a result, the taxpayer must file for a state extension while they await the forms. By moving the date later, such as March or April, it allows these taxpayers to comply with state law without the added burden of filing for an extension needed due to the tardiness of a required federal form.

(Opposed) None.

Persons Testifying: Representative Van Werven, prime sponsor; Mark Johnson, Washington Retail Association; Clay Hill, Association of Washington Business; and Patrick Connor, National Federation of Independent Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Finance. Signed by 33 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger, Volz and Ybarra.

Staff: Meghan Morris (786-7119).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Finance:

The due date change for local business and occupation (B&O) tax payments for annual filers is delayed until January 1, 2021.

The bill is null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill improves tax fairness and efficiency. Per the fiscal note, the bill will help an estimated 126,000 taxpayers, primarily to relieve them of administrative burden. This is about the date by which the taxpayers would have the documentation they need to properly fill out their excise tax return. The date change will provide peace of mind to taxpayers with minimal impact to the state budget. About half of the 126,000 small businesses affected might actually take advantage of having the slightly longer timeframe to get all of their 1099-MISC forms in order before filing their state B&O tax documents.

This is a good housekeeping bill. In addition to the small fiscal note there should have been some listed savings. The data changes lessen the time for the Department of Revenue (DOR) staff to follow up with people by phone or letter to remind them month after month that their taxes are past due. The bill will also alleviate the DOR from processing around 50,000 amendments or other requests for extensions simply because independent contractors have not received their 1099-MISC forms.

(Opposed) None.

(Other) Cities may have some concerns about how the timing of date changes affects local B&O tax collections relating to the model ordinance. The bill should be amended to delay the date change for local B&O tax collections so cities currently in the business licensing service queue are not adversely impacted. However, all cities should not be exempt from this requirement.

Persons Testifying: (In support) Clay Hill, Association of Washington Business; and Patrick Connor, National Federation of Independent Business.

(Other) Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.