

# HOUSE BILL REPORT

## HB 1738

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### As Reported by House Committee On: Finance

**Title:** An act relating to relieving burdens on small businesses by updating the tax return filing thresholds to reflect inflation.

**Brief Description:** Relieving burdens on small businesses by updating the tax return filing thresholds to reflect inflation.

**Sponsors:** Representatives Kraft, Stokesbary, Walsh, Vick and Young.

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/19/19, 3/21/19 [DPS].

#### **Brief Summary of Substitute Bill**

- Increases the business and occupation (B&O) tax annual gross receipts filing threshold to \$56,000 for service businesses and \$36,000 for all other businesses.
- Increases the mandatory business registration threshold to \$56,000 for service businesses and \$35,000 for all other businesses.
- Increases the public utility tax (PUT) annual gross receipts filing threshold to \$30,000.
- Increases the small business exemption for PUT gross receipts threshold to \$2,500 per month.

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### HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Tarleton, Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Young, Assistant Ranking Minority Member; Chapman, Frame, Macri, Orwall, Springer, Stokesbary, Vick and Wylie.

**Staff:** Richelle Geiger (786-7139).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **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 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 is not required 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 (service businesses).

### Public Utility Tax.

The gross income derived from the operation of publicly and privately owned utilities is subject to the public utility tax (PUT). The tax is imposed in lieu of B&O tax and is applied only on sales to consumers. Other income of the utility, such as retail sale of tangible personal property, is subject to the B&O tax. There are six different PUT rates, depending on the specific utility activity. The rates are:

- 3.852 percent on telegraph companies, distribution of natural gas, and the collection of sewage;
- 3.8734 percent on the generation or distribution of electrical power;
- 0.642 percent on urban transportation and watercraft vessels under 65 feet in length;
- 1.926 percent on motor transportation, railroads, railroad car companies, and all other public service businesses;
- 5.029 percent on the distribution of water; and
- 1.3696 percent on log transportation.

A taxpayer who engages in one or more businesses subject to PUT is fully exempt from the tax if their total gross income is \$2,000 or less per month. Any taxpayer that has a total gross income greater than \$2,000 per month does not receive an exemption or deduction under this provision.

A business does not have to file an excise tax return for PUT if the business does not owe other taxes or fees to the DOR and has annual gross proceeds of less than \$24,000.

### State Business Registration.

All businesses in the state are required to register with the DOR and obtain a registration certificate, unless otherwise exempt. A taxpayer is exempt from the registration requirement if:

1. their gross receipts subject to B&O tax or PUT is less than \$12,000 per year;
2. they do not owe other taxes or fees to the DOR; and

3. they are not otherwise required to obtain a business license.

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**Summary of Substitute Bill:**

The statutory filing threshold for B&O taxes is increased to \$56,000 in annual gross receipts for service businesses and \$36,000 for all other businesses. The threshold for mandatory business registration is increased to \$56,000 in annual gross receipts for service businesses and \$35,000 for all other businesses.

The statutory filing threshold for PUT is increased to \$30,000. For taxpayers who engage in one or more businesses subject to PUT, the total gross income threshold for the PUT small business exemption is increased to \$2,500 per month.

**Substitute Bill Compared to Original Bill:**

The gross receipts filing threshold for non-service B&O taxpayers is increased to \$36,000, instead of \$35,000.

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**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) This is a good piece of legislation that was first introduced last session. The bill increases B&O tax and PUT filing thresholds and exemption levels based on inflation. The filing thresholds have not been updated in 20 years.

The policy will provide relief, reduce administrative burden, and support the success of small, start-up, and low margin businesses and sole proprietors. Thousands of small businesses with no B&O tax liability are still required to file and may be subject to late filing fees.

The fiscal impact of the bill is attributable to the PUT policy in the bill. There is support for removing the PUT policy, in order to eliminate the fiscal impact of the bill.

(Opposed) None.

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

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