FINAL BILL REPORT
ESB 6016

C 426 L 19
Synopsis as Enacted

Brief Description: Concerning the taxation of international investment management companies.

Sponsors: Senators Liias, Rolfes and Hunt.

Senate Committee on Ways & Means
House Committee on Finance

Background: Sales and Use Tax. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the user acquired the property, digital products, or services, then use taxes apply to the value when used in this state. The state, most cities, and all counties levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent. Local sales and use tax rates vary depending on the location.

Standard Financial Information Tax Exemption. In 2013, the Legislature enacted a retail sales and use tax exemption for the sale of standard financial information to qualifying international investment management companies. "Standard financial information" is defined as financial data, facts or information, or financial information services, developed for more than one customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports. A "qualifying international investment management company" is defined as a person who is primarily engaged in the business of providing investment management services, with at least 10 percent of the gross income derived from such services to persons or collective investment funds outside of the United States, or collective investment funds with at least 10 percent of their investments positioned outside of the United States. The amount of deductible purchases is limited to $15 million per year.

The standard financial information may be provided in hard copy, in a storage medium, or as a digital product transferred electronically. To receive the tax exemption, the seller must obtain an exemption certificate from the buyer or maintain relevant data of sales as authorized by the Streamlined Sales and Use Tax Agreement. This tax exemption expires July 1, 2021.

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.

In 2017, the Joint Legislative Audit and Review Committee (JLARC) reviewed this tax exemption. The legislative auditor recommended that the Legislature clarify what is meant by "reasonably conform" and require taxpayers to determine the preference's fiscal impact.

Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. 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 if they do not make any profits or are 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 activities not classified elsewhere. Several preferential rates also apply to specific business activities.

Preferential Tax Rate for International Investment Management Services. Businesses conducting international investment management services (IIMS) are provided a preferential business and occupation tax rate of 0.275 percent. Without this tax preference, such businesses would be taxed at the general services rate of 1.5 percent.

Tax Preferences. State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a tax preference performance statement that identifies the public policy objective of the preference, as well as specific metrics that JLARC can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after ten years unless an alternative expiration date is provided.

Summary: Preferential Tax Rate for International Investment Management Services. Additional criteria is established for qualifying IIMS. The preferential tax rate applies to businesses that have more than 25 percent of its employees in the state and are a member of an affiliated group that collectively has:

- ten or more offices located in at least eight foreign countries;
- at least 500 full-time employees worldwide;
- worldwide gross revenue of more than $400 million dollars during the entire current or immediately preceding calendar year; and
- average assets of more than $200 billion dollars during the entire current or immediately preceding calendar year.

An affiliate is deemed to be engaged in the business of providing qualifying IIMS if the affiliate primarily provides portfolio management, fund administration, fund distribution, or transfer agent services, or any combination of these activities, either directly or indirectly.

If a qualifying IIMS business no longer has more than 25 percent of its employees in the state, then the business is required to pay back the entire economic benefit received over the prior ten years as a result of the preferential tax rate.

An IIMS business no longer meeting the employment eligibility requirements must immediately pay back the entire economic benefit accruing over the current and immediately prior nine consecutive calendar years, or the consecutive years since the effective date of this

act, whichever is less. The Department of Revenue must assess interest, but not penalties, on such amounts. The interest must be assessed at a rate as provided in statute for delinquent excise taxes and accrue until the taxes for which a tax preference has been used are repaid.

"Affiliate" and "affiliated" is defined as a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

"Control" is defined as the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

"Affiliated group" is defined as any group of two or more persons all affiliated with each other.

Changes to qualifying IIMS are exempt from tax preferences performance requirements.

<u>Standard Financial Information Tax Exemption.</u> The retail sales and use tax exemption for the sale of standard financial information to a qualifying international investment management company is extended until July 1, 2031. The sales and use tax exemption is subject to tax preference performance review and expiration.

Votes on Final Passage:

Senate	28	19	
House	76	22	(House amended)
Senate	27	19	(Senate concurred)

Effective: July 28, 2019
July 1, 2019 (Sections 2 and 3)