Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

ESB 5309

Brief Description: Eliminating the state public utility tax deduction for the instate portion of interstate transport of petroleum products and crude oil.

Sponsors: Senators Lovelett, Rolfes, Hasegawa, Hunt, Keiser, Nguyen and Nobles.

Brief Summary of Engrossed Bill

- Removes the public utility tax deduction for the instate portion of the interstate transport of petroleum products and crude oil.

Hearing Date: 3/14/23

Staff: Tracey Taylor (786-7152).

Background:

Public Utility Tax.
The gross income derived from the operation of publicly and privately owned utilities is subject to the public utility tax (PUT), unless otherwise exempt. The tax is imposed in lieu of the Business and Occupation (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

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- 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 Department of Revenue and has annual gross proceeds of less than $24,000.

The revenues from the PUT are deposited into the State General Fund, except that through June 30, 2023, 20 percent of the receipts from the base 4.7 percent tax on water distribution and 60 percent of the receipts from the base 3.6 percent tax on sewage collection are deposited into the Education Legacy Trust Account. Beginning July 1, 2023, these receipts will be deposited into the Public Works Assistance Account.

Hauling for hire is the business of operating any motor vehicle to transport people or property owned by others, for a fee. There are two classifications of businesses that perform hauling for hire within the state of Washington that determine the PUT rate: motor transportation or urban transportation. The motor transportation PUT classification applies to all instate hauls unless the haul qualifies as an urban transportation haul. The urban transportation PUT classification applies when the origin and destination of a haul are within the corporate limits of the same city, five miles of the corporate limits of the same city, or five miles of the corporate limits of any two cities whose corporate limits are no more than five miles apart. The mileage is calculated by straight line distance rather than road miles.

A taxpayer will report total gross income from hauling under either classification. There are several deductions available, including a deduction for interstate and foreign sales. This deduction is available for hauls that either begin or end in Washington. The deduction also applies to hauls that end at an export facility, if the products are then shipped outside of Washington in vessels. In addition, the deduction is available for hauls in Washington that are related to imported or exported goods that have technically ceased movement in interstate commerce that are shipped under "through freight" billing.

Summary of Bill:

The PUT deductions that wholly exempt the instate portion of gross income derived from interstate transportation activities from hauling for hire do not apply to the transport of petroleum products not packaged for sale to ultimate consumers and crude oil. Beginning October 1, 2023, business income derived from the instate portion of interstate transport services related to petroleum and crude oil would be subject to the state PUT.

A taxpayer engaged in the business of transporting petroleum products, crude oil, or both, must apportion the gross income derived from these activities based on a ratio of revenue miles of the taxpayer in this state during the tax period bear to the revenue miles of the taxpayer everywhere during the tax period. Gross income must only include the amount for transporting the petroleum products or crude oil not packaged for sale to the ultimate consumer and must not include any gross income derived from transporting any other property or passengers. For taxpayers transporting petroleum products or crude oil by pipeline, apportionment of gross income must be based on the ratio of the total number of traffic units in this state during the tax period bear to the total number of traffic units everywhere during the tax period. The term "traffic unit" means the movement of one unit of a taxable petroleum product or crude oil for a distance of one mile.

Petroleum products "packaged for sale to ultimate customers" are petroleum products that are packaged that are prepared and packaged for sale at usual and ordinary retail outlets.

The term "petroleum product" means plant condensate; lubricating oil; gasoline; aviation fuel; kerosene; diesel motor fuel; benzol; fuel oil; residual oil; liquefied or liquefiable gases such as butane, ethane, and propane; and every other product derived from refining crude oil, but the term does not include crude oil.

Appropriation: None.

Fiscal Note: Available.

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