

HOUSE BILL REPORT

SHB 1328

As Passed Legislature

Title: An act relating to the tax treatment of boarding homes.

Brief Description: Modifying the tax treatment of boarding homes.

Sponsors: By House Committee on Finance (originally sponsored by Representatives Fromhold, Cairnes, Sullivan, Veloria, Skinner, Alexander, Morris, Moeller, Benson, Darneille, Linville, Jarrett, Miloscia, Clibborn, Cox, Pettigrew, Clements, McCoy, Campbell, Romero, O'Brien, Talcott, Ahern, Schindler, Hinkle, Hunt, Rockefeller, Wallace, Quall, Conway, Flannigan, Chase, Blake, G. Simpson, Upthegrove, Kenney, Newhouse, Buck, Woods and Bush).

Brief History:

Committee Activity:

Finance: 2/5/04 [DPS].

Floor Activity:

Passed House: 2/16/04, 97-0.

Passed Senate: 3/11/04, 47-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Lowers B&O tax rate from 1.5 percent to 0.275 percent for licensed boarding homes.
- Deducts from the B&O tax calculation amounts received by licensed boarding homes from Department of Social and Health Services for services provided to medicaid recipients.

HOUSE COMMITTEE ON FINANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McIntire, Chair; Hunter, Vice Chair; Cairnes, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Ahern, Conway, Morris, Roach and Santos.

Staff: Rick Peterson (786-7150).

Background:

A licensed boarding home is a facility that provides board and domiciliary care to seven or more residents. Domiciliary care includes assistance with the activities of daily living and assuming general responsibility for the safety and well-being of the resident. Some boarding homes offer limited nursing services and others specialize in serving people with mental health problems, developmental disabilities, or dementia.

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. The tax is imposed on the gross receipts from all business activities conducted within the state. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity. Businesses that are involved in more than one kind of business activity are required to segregate their income and report under the appropriate tax classification based on the nature of the specific activity

The income derived from the rental of real estate is exempt from the B&O tax. Until recently the Department of Revenue (Department) allowed boarding homes with sufficient supporting documentation to separate the charges for renting rooms from the charges for personal and professional services and meals. The Department has now concluded that the primary purpose of assisted living facilities is to provide daily living assistance and care to the aged not the lease of real estate. This means that boarding homes can no longer separate their charges and must pay B&O tax at the service rate (1.5 percent) on their entire fee. This makes the tax treatment of boarding homes the same as that for nursing homes.

There are some B&O deductions and exemptions that apply in this area. Nonprofit health and social welfare organizations are allowed a deduction from the B&O tax for payments from governmental entities for health or social services. Adult family homes are exempt from B&O taxes.

Summary of Substitute Bill:

Licensed boarding homes providing room and domiciliary care to residents pay B&O taxes at a rate of 0.275 percent. Amounts received from the Department of Social and Health Services (DSHS) for adult residential care, enhanced adult residential care, or assisted living services for medicaid recipients are deducted from income before B&O taxes are determined.

Appropriation: None.

Fiscal Note: Requested on substitute February 7, 2004.

Effective Date: The bill takes effect on July 1, 2004.

Testimony For: Confusion persists on the issue of taxation of boarding homes. Boarding homes have been led to understand that they needed only pay B&O tax on the services they provide. They were not taxed on the rent that residents pay. Now the Department of Revenue is planning to overturn their own past precedent on the taxation of boarding homes and tax boarding homes their total gross receipts. The Department is comparing boarding homes to nursing homes. Nursing homes provide medical care boarding homes do not. Application of the B&O tax to the full cost will be injurious to the residents of boarding homes because the boarding homes will have to pass the tax to them. Boarding homes serving medicaid recipients cannot afford to continue with current reimbursement rates if the B&O tax is applied.

Testimony Against: None.

Persons Testifying: Brendan Williams, Washington Health Care Association; Lauri St. Ouis, Northwest Assisted Living Facilities Association; Deb Murphy, Washington Association of Housing Services for the Aging; and Lynn French, The Cannon House.

Persons Signed In To Testify But Not Testifying: None.