
**Trade & Economic Development
Committee**

HB 2691

Brief Description: Providing a business and occupation tax exemption for qualifying small businesses.

Sponsors: Representatives Eickmeyer, Armstrong, Haigh, Bush, Sehlin, Benson, Ruderman, Skinner, McDermott, Simpson, G., Chase, Morrell, Campbell, Kessler, Woods, Linville, Edwards and Roach.

Brief Summary of Bill

- Exempts qualified small businesses from paying business and occupation (B&O) tax if the business has gross proceeds of sales, a gross income or products valued at less than \$200,000 and the business paid B&O taxes that exceeded its net business income on its federal tax return during the 12 month test period.

Hearing Date: 1/27/04

Staff: Tracey Taylor (786-7196).

Background:

Washington's business and occupation (B&O) tax is the second largest tax source for the state. In Fiscal Year 2002, B&O tax collection totaled \$1.958 billion which represented approximately 16.4 percent of state revenue sources within the state general fund. Almost all businesses located or doing business in the state of Washington are subject to the state B&O tax, including corporations, partnerships, sole proprietors and nonprofit organizations.

Washington's B&O tax is calculated on gross income from business activities in the state. There are no deductions from the B&O tax for labor, materials, taxes or other costs of doing business. However, some businesses may qualify for certain exemptions, deductions or credits. An exempted activity is not subject to the B&O tax and is not reported on the Combined Excise tax Return (CETR). Exempted activities include raising and selling plantation Christmas trees at wholesale; sales for fund-raising of certain nonprofit organizations; international banking facilities; and growing, raising or producing agricultural products. Unlike exemptions, deductions must first be reported on a business's CETR as part of the business's gross income, then taken as a deduction. Allowable deductions include bad debts; freight and delivery costs incurred by a Washington manufacturer for out-of-state shipments; and sales made in Washington by an out-of-state seller without activities in Washington that establish, maintain, or facilitate a market for

its products or services. Credits are amounts that have been paid to the Department of Revenue which are either not due or are granted by the Legislature for a specific purpose. Credits are subtracted from the B&O tax due on the CETR and include the multiple activities tax credit; the high technology B&O tax credit and the small business B&O tax credit.

B&O tax rates and classifications vary according to the type of business activity. The major B&O tax classifications are retailing, wholesaling, manufacturing and service and other activities.

Summary of Bill:

A small business may be exempted from paying B&O tax if during the 12 month test period, the small business meets certain criteria. First, the small business must have gross proceeds of sales, a gross income or products valued at less than \$200,000. Second, the small business must have paid B&O taxes during the 12 month test period that exceeded the small business's net business income on the its federal income tax returns for the same 12 month period.

The 12 month test period is 12 consecutive months chosen by the taxpayer and must end no earlier than the 6 months before the reporting period covered by the first return taking this exemption. The exemption is limited for monthly reporters to 12 monthly tax reports, for quarterly reporters to 4 quarterly tax reports, or for annual reporters to one tax report. A business cannot take an exemption for any tax period that starts more than 24 months after the taxpayer first takes the exemption.

Before taking the exemption, the business must provide its federal income tax returns for the 12 month test period to the DOR. The federal income tax information is not confidential and may be disclosed to the public upon request.

Appropriation: None.

Fiscal Note: Requested on January 19, 2004.

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