
ENGROSSED SENATE BILL 5517

State of Washington

58th Legislature

2003 Regular Session

By Senators B. Sheldon, Schmidt, Kohl-Welles, Oke, Poulsen, West and Rasmussen

Read first time 01/28/2003. Referred to Committee on Ways & Means.

1 AN ACT Relating to clarifying the apportionment of business and
2 occupation taxes on travel agent or tour operator businesses conducted
3 both within and outside the state; and amending RCW 82.04.260.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 82.04.260 and 2001 2nd sp.s. c 25 s 2 are each amended
6 to read as follows:

7 (1) Upon every person engaging within this state in the business of
8 manufacturing:

9 (a) Wheat into flour, barley into pearl barley, soybeans into
10 soybean oil, canola into canola oil, canola meal, or canola byproducts,
11 or sunflower seeds into sunflower oil; as to such persons the amount of
12 tax with respect to such business shall be equal to the value of the
13 flour, pearl barley, oil, canola meal, or canola byproduct
14 manufactured, multiplied by the rate of 0.138 percent;

15 (b) Seafood products which remain in a raw, raw frozen, or raw
16 salted state at the completion of the manufacturing by that person; as

1 to such persons the amount of tax with respect to such business shall
2 be equal to the value of the products manufactured, multiplied by the
3 rate of 0.138 percent;

4 (c) By canning, preserving, freezing, processing, or dehydrating
5 fresh fruits and vegetables, or selling at wholesale fresh fruits and
6 vegetables canned, preserved, frozen, processed, or dehydrated by the
7 seller and sold to purchasers who transport in the ordinary course of
8 business the goods out of this state; as to such persons the amount of
9 tax with respect to such business shall be equal to the value of the
10 products canned, preserved, frozen, processed, or dehydrated multiplied
11 by the rate of 0.138 percent. As proof of sale to a person who
12 transports in the ordinary course of business goods out of this state,
13 the seller shall annually provide a statement in a form prescribed by
14 the department and retain the statement as a business record; and

15 (d) Dairy products that as of September 20, 2001, are identified in
16 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts
17 from the manufacturing of the dairy products such as whey and casein;
18 or selling the same to purchasers who transport in the ordinary course
19 of business the goods out of state; as to such persons the tax imposed
20 shall be equal to the value of the products manufactured multiplied by
21 the rate of 0.138 percent. As proof of sale to a person who transports
22 in the ordinary course of business goods out of this state, the seller
23 shall annually provide a statement in a form prescribed by the
24 department and retain the statement as a business record.

25 (2) Upon every person engaging within this state in the business of
26 splitting or processing dried peas; as to such persons the amount of
27 tax with respect to such business shall be equal to the value of the
28 peas split or processed, multiplied by the rate of 0.138 percent.

29 (3) Upon every nonprofit corporation and nonprofit association
30 engaging within this state in research and development, as to such
31 corporations and associations, the amount of tax with respect to such
32 activities shall be equal to the gross income derived from such
33 activities multiplied by the rate of 0.484 percent.

34 (4) Upon every person engaging within this state in the business of
35 slaughtering, breaking and/or processing perishable meat products
36 and/or selling the same at wholesale only and not at retail; as to such
37 persons the tax imposed shall be equal to the gross proceeds derived
38 from such sales multiplied by the rate of 0.138 percent.

1 (5) Upon every person engaging within this state in the business of
2 making sales, at retail or wholesale, of nuclear fuel assemblies
3 manufactured by that person, as to such persons the amount of tax with
4 respect to such business shall be equal to the gross proceeds of sales
5 of the assemblies multiplied by the rate of 0.275 percent.

6 (6) Upon every person engaging within this state in the business of
7 manufacturing nuclear fuel assemblies, as to such persons the amount of
8 tax with respect to such business shall be equal to the value of the
9 products manufactured multiplied by the rate of 0.275 percent.

10 (7) Upon every person engaging within this state in the business of
11 acting as a travel agent or tour operator; as to such persons the
12 amount of the tax with respect to such activities shall be equal to the
13 gross income derived from such activities multiplied by the rate of
14 0.275 percent. If the activities are conducted both within and without
15 this state, the amount of tax on such person shall be equal to the
16 apportioned gross income of the business multiplied by the rate of .275
17 percent. The apportioned gross income shall be calculated by
18 multiplying the apportionable income by a fraction, the numerator of
19 which is the sum of the property factor, if any, the payroll factor, if
20 any, and the sales factor, if any, and the denominator of which is
21 three reduced by the number of factors that have a denominator of zero.
22 The apportionment factors shall be calculated according to rules
23 adopted by the department consistent with, but are not required to be
24 identical to, the principles and concepts contained in chapter 82.56
25 RCW. If the provisions of this section do not fairly represent the
26 extent of the taxpayer's business activity in this state, the taxpayer
27 may petition or the department may require the use of an alternative
28 apportionment method, if reasonable, such as separate accounting, the
29 exclusion of any one or more of the factors, or the inclusion of one or
30 more additional factors. As used in this section, "apportionable
31 income" means the gross income of the taxpayer, less applicable
32 exemptions and deductions allowable under this chapter.

33 (8) Upon every person engaging within this state in business as an
34 international steamship agent, international customs house broker,
35 international freight forwarder, vessel and/or cargo charter broker in
36 foreign commerce, and/or international air cargo agent; as to such
37 persons the amount of the tax with respect to only international

1 activities shall be equal to the gross income derived from such
2 activities multiplied by the rate of 0.275 percent.

3 (9) Upon every person engaging within this state in the business of
4 stevedoring and associated activities pertinent to the movement of
5 goods and commodities in waterborne interstate or foreign commerce; as
6 to such persons the amount of tax with respect to such business shall
7 be equal to the gross proceeds derived from such activities multiplied
8 by the rate of 0.275 percent. Persons subject to taxation under this
9 subsection shall be exempt from payment of taxes imposed by chapter
10 82.16 RCW for that portion of their business subject to taxation under
11 this subsection. Stevedoring and associated activities pertinent to
12 the conduct of goods and commodities in waterborne interstate or
13 foreign commerce are defined as all activities of a labor, service or
14 transportation nature whereby cargo may be loaded or unloaded to or
15 from vessels or barges, passing over, onto or under a wharf, pier, or
16 similar structure; cargo may be moved to a warehouse or similar holding
17 or storage yard or area to await further movement in import or export
18 or may move to a consolidation freight station and be stuffed,
19 unstuffed, containerized, separated or otherwise segregated or
20 aggregated for delivery or loaded on any mode of transportation for
21 delivery to its consignee. Specific activities included in this
22 definition are: Wharfage, handling, loading, unloading, moving of
23 cargo to a convenient place of delivery to the consignee or a
24 convenient place for further movement to export mode; documentation
25 services in connection with the receipt, delivery, checking, care,
26 custody and control of cargo required in the transfer of cargo;
27 imported automobile handling prior to delivery to consignee; terminal
28 stevedoring and incidental vessel services, including but not limited
29 to plugging and unplugging refrigerator service to containers,
30 trailers, and other refrigerated cargo receptacles, and securing ship
31 hatch covers.

32 (10) Upon every person engaging within this state in the business
33 of disposing of low-level waste, as defined in RCW 43.145.010; as to
34 such persons the amount of the tax with respect to such business shall
35 be equal to the gross income of the business, excluding any fees
36 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
37 percent.

1 If the gross income of the taxpayer is attributable to activities
2 both within and without this state, the gross income attributable to
3 this state shall be determined in accordance with the methods of
4 apportionment required under RCW 82.04.460.

5 (11) Upon every person engaging within this state as an insurance
6 agent, insurance broker, or insurance solicitor licensed under chapter
7 48.17 RCW; as to such persons, the amount of the tax with respect to
8 such licensed activities shall be equal to the gross income of such
9 business multiplied by the rate of 0.484 percent.

10 (12) Upon every person engaging within this state in business as a
11 hospital, as defined in chapter 70.41 RCW, that is operated as a
12 nonprofit corporation or by the state or any of its political
13 subdivisions, as to such persons, the amount of tax with respect to
14 such activities shall be equal to the gross income of the business
15 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
16 percent thereafter. The moneys collected under this subsection shall
17 be deposited in the health services account created under RCW
18 43.72.900.

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