
HOUSE BILL 1751

State of Washington

63rd Legislature

2013 Regular Session

By Representatives Springer, Chandler, Ryu, Harris, Reykdal, Orcutt, and Santos

Read first time 02/07/13. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to providing for equal tax treatment of investment
2 securities for in-state and out-of-state banks; amending RCW 82.04.460;
3 and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the financial
6 services market is highly competitive, and that many financial services
7 are being delivered electronically by institutions headquartered
8 outside of our state. In order to maintain a stable tax base, the
9 legislature has adopted a principle for the taxation of financial
10 institutions that relies on the location of the borrower to determine
11 whether interest payments are subject to state excise tax. The
12 legislature finds that for financial institutions, interest income
13 should be treated consistently according to this principle, regardless
14 of the nature of the instrument through which the interest payments are
15 secured. The intent of the legislature is to provide for a stable tax
16 base that does not encourage Washington-headquartered taxpayers to move
17 their treasury function, and the jobs associated with that function,
18 outside of the state in order to benefit from a lower tax liability on
19 interest income.

1 **Sec. 2.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in this section, any person
4 earning apportionable income taxable under this chapter and also
5 taxable in another state must, for the purpose of computing tax
6 liability under this chapter, apportion to this state, in accordance
7 with RCW 82.04.462, that portion of the person's apportionable income
8 derived from business activities performed within this state.

9 (2) The department must by rule provide a method of apportioning
10 the apportionable income of financial institutions, where such
11 apportionable income is taxable under RCW 82.04.290. The rule adopted
12 by the department must, to the extent feasible, be consistent with the
13 multistate tax commission's recommended formula for the apportionment
14 and allocation of net income of financial institutions as existing on
15 June 1, 2010, or such subsequent date as may be provided by the
16 department by rule, consistent with the purposes of this section,
17 except that:

18 (a) The department's rule must provide for a single factor
19 apportionment method based on the receipts factor; (~~and~~)

20 (b) The definition of "financial institution" contained in appendix
21 A to the multistate tax commission's recommended formula for the
22 apportionment and allocation of net income of financial institutions is
23 advisory only; and

24 (c) The definition of "loan" contained in the multistate tax
25 commission's recommended formula for the apportionment and allocation
26 of net income of financial institutions must also include investment
27 securities permissible for financial institutions by applicable bank
28 regulatory rules and issued by the person obligated to pay the
29 principal and interest thereon.

30 (3) The department may by rule provide a method or methods of
31 apportioning or allocating gross income derived from sales of
32 telecommunications service and competitive telephone service taxed
33 under this chapter, if the gross proceeds of sales subject to tax under
34 this chapter do not fairly represent the extent of the taxpayer's
35 income attributable to this state. The rule must provide for an
36 equitable and constitutionally permissible division of the tax base.

37 (4) For purposes of this section, the following definitions apply
38 unless the context clearly requires otherwise:

1 (a) "Apportionable income" means gross income of the business
2 generated from engaging in apportionable activities, including income
3 received from apportionable activities performed outside this state if
4 the income would be taxable under this chapter if received from
5 activities in this state, less the exemptions and deductions allowable
6 under this chapter. For purposes of this subsection, "apportionable
7 activities" means only those activities taxed under:

8 (i) RCW 82.04.255;

9 (ii) RCW 82.04.260 (3), (~~(4)~~) (5), (6), (7), (8), (9), (10), and
10 (~~(12)~~) (13);

11 (iii) RCW 82.04.280 (1)(e);

12 (iv) RCW 82.04.285;

13 (v) RCW 82.04.286;

14 (vi) RCW 82.04.290;

15 (vii) RCW 82.04.2907;

16 (viii) RCW 82.04.2908;

17 (ix) RCW 82.04.263, but only to the extent of any activity that
18 would be taxable under any of the provisions enumerated under (a)(i)
19 through (viii) of this subsection (4) if the tax classification in RCW
20 82.04.263 did not exist; and

21 (x) RCW 82.04.260(~~(13)~~) (14) and 82.04.280(1)(a), but only with
22 respect to advertising.

23 (b)(i) "Taxable in another state" means that the taxpayer is
24 subject to a business activities tax by another state on its income
25 received from engaging in apportionable activities; or the taxpayer is
26 not subject to a business activities tax by another state on its income
27 received from engaging in apportionable activities, but any other state
28 has jurisdiction to subject the taxpayer to a business activities tax
29 on such income under the substantial nexus standards in RCW
30 82.04.067(1).

31 (ii) For purposes of this subsection (4)(b), "business activities
32 tax" and "state" have the same meaning as in RCW 82.04.462.

--- END ---