

HOUSE BILL REPORT

HB 1765

As Passed House:

February 2, 2022

Title: An act relating to ensuring the ongoing sustainability and vitality of the Washington health benefit exchange by eliminating the expiration date of its business and occupation tax exemption.

Brief Description: Ensuring the ongoing sustainability and vitality of the Washington health benefit exchange by eliminating the expiration date of its business and occupation tax exemption.

Sponsors: Representatives Chopp, Cody, Macri, Ryu, Simmons, Wylie, Tharinger, Valdez, Pollet, Fitzgibbon, Chapman, Ortiz-Self, Stonier, Goodman, Riccelli, Davis, Taylor and Kloba; by request of Office of Financial Management.

Brief History:

Committee Activity:

Finance: 1/17/22, 1/24/22 [DP].

Floor Activity:

Passed House: 2/2/22, 95-1.

Brief Summary of Bill

- Makes the business and occupation tax exemption for health benefit exchanges permanent.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 16 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Tracey Taylor (786-7152).

Background:

Business and Occupation Tax.

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. Businesses must pay the B&O tax even though they may not have any profits or may be operating at a loss.

A taxpayer may have more than one B&O tax rate, depending on the types of activities conducted. Major B&O tax rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent (businesses with taxable income of less than \$1 million) or 1.75 percent (businesses with taxable income of \$1 million or more) for services and for activities not classified elsewhere. Several preferential rates also apply to specific business activities.

In addition, a taxpayer may be eligible to utilize other tax preferences, including credits and deductions, to reduce their tax liability. For example, a taxpayer engaging in activities subject to different B&O tax rates may be eligible for a Multiple Activities Tax Credit. A taxpayer may also be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. In general, the credit is \$70 per month for service businesses and \$35 per month for all other businesses, multiplied by the number of months in the reporting period. The amount of the credit available phases out based on the business's gross receipts.

A business does not have to file an annual B&O tax return if the business does not owe other taxes or fees to the Department of Revenue (DOR) and has annual gross proceeds of sales, gross income, or value of products for all B&O tax classifications of less than \$28,000 per year, or less than \$46,667 if at least 50 percent of its taxable income is from services or activities not classified elsewhere.

Tax Preferences.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Currently, Washington has over 650 tax preferences, including a variety of sales and use tax exemptions. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Health Benefit Exchange Tax Exemption.

In 2011 the Washington Health Benefit Exchange (Exchange) was established by the

Legislature as a state-based marketplace for consumers to compare and obtain health insurance plans that meet federal standards. It also connects qualifying residents to federal subsidies that lower their healthcare costs.

The Exchange is a public-private partnership and is funded through legislative appropriations from the Health Benefit Exchange Account, federal funds, and the State General Fund. In 2013 the Legislature exempted the Exchange's funding from B&O taxes. The tax preference will expire on July 1, 2023.

According to the 2021 Tax Preference Performance Review conducted by JLARC, the estimated biennial beneficiary savings from this tax preference is \$2.2 million. The Legislative Auditor determined that the preference allows the Exchange to maximize its funding for operating the health insurance marketplace and recommended that the expiration date be extended, or the preference made permanent. The Citizen Commission for Performance Measurement of Tax Preferences endorsed the Legislative Auditor's recommendation with the added comment that the preference should be excluded from future reviews as it serves a structural purpose related to the state's broader healthcare policy.

Summary of Bill:

The B&O tax exemption for the Exchange is made permanent.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The Exchange is the state-based insurance marketplace and one of the best in the nation. The JLARC just finished a review of the B&O tax exemption and recommended that it continue permanently. The Exchange is run by a small organization that maximizes its resources by leveraging their appropriations with the available federal subsidies. With the exemption of the appropriations it receives, the Exchange is able to provide the health marketplace portal, a call center, and community-based services that benefit Washingtonians.

(Opposed) None.

Persons Testifying: Representative Frank Chopp, prime sponsor; and Jim Crawford, Washington Health Benefit Exchange.

Persons Signed In To Testify But Not Testifying: None.