
Finance Committee

HB 2091

Brief Description: Creating pathways to recovery from addiction by eliminating an obsolete tax preference for the warehousing of opioids and other drugs.

Sponsors: Representatives Davis, Berg, Ryu, Santos, Bergquist, Ramel, Kloba and Pollet.

Brief Summary of Bill

- Increases the business and occupation (B&O) tax rate on businesses that warehouse and resell prescription drugs from 0.138 percent to 0.484 percent.
- Directs the net difference in B&O tax collected from these businesses to the Recovery Pathways Account.

Hearing Date: 2/3/22

Staff: Tracey Taylor (786-7152).

Background:

Business & 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

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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.

Taxation of Businesses that Warehouse and Resell Prescription Drugs.

Businesses registered with the Federal Drug Enforcement Administration and licensed by the Pharmacy Quality Assurance Commission that warehouse and resell prescription drugs receive a preferential B&O tax rate of 0.138 percent, rather than the general wholesaling tax rate of 0.484 percent.

In 2013 the Joint Legislative Audit and Review Committee reviewed this preference and recommended the preference continue because it provided tax relief to firms that experience low profit margins and encouraged resellers of prescription drugs to relocate to Washington. The Citizen's Commission for Performance Measurement of Tax Preference (Commission) endorsed this recommendation with comment. The Commission noted that the inferred public policy was met; however, in light of public comment, it recommended that the Legislature could consider whether to review this preference.

The estimated beneficiary savings in 2021–23 is \$53.6 million.

Summary of Bill:

The preferential B&O tax rate for businesses that warehouse and resell prescription drugs of 0.138 percent is repealed. These businesses will be subject to the standard B&O tax rate of 0.484 percent. The new rate applies to taxes due for reporting periods beginning on or after the effective date of the act.

Each quarter, the DOR must estimate the difference in the tax proceeds collected under the 0.484 percent rate and what would have been collected under the 0.138 percent rate. The State Treasurer must transfer the net difference in proceeds quarterly from the State General Fund to the newly created Recovery Pathways Account (Account).

Moneys from the Account must only be used for services for persons with substance use disorder that are not insurance reimbursable, including outreach services and recovery support services.

"Outreach services" means outreach and engagement services that build trust and hope between individuals in active addiction and facilitate access to treatment and other social services.

"Recovery support services" means services that support a person's recovery, including but not limited to: recovery housing, education and employment support, recovery coaching, family education, recovery community programs, legal support services, transportation support, child care support, and technological recovery support.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2022.