

HOUSE BILL REPORT

ESSB 5980

As Passed House - Amended:

March 9, 2022

Title: An act relating to providing substantial and permanent tax relief for small businesses to mitigate structural deficiencies in Washington's business and occupation tax and lessen long-term negative economic consequences of the pandemic that have disproportionately impacted small businesses.

Brief Description: Providing substantial and permanent tax relief for small businesses to mitigate structural deficiencies in Washington's business and occupation tax and lessen long-term negative economic consequences of the pandemic that have disproportionately impacted small businesses.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Carlyle, Randall, Hunt, Kuderer and Mullet).

Brief History:

Committee Activity:

Finance: 3/7/22, 3/8/22 [DPA].

Floor Activity:

Passed House: 3/9/22, 97-0.

<p style="text-align: center;">Brief Summary of Engrossed Substitute Bill (As Amended by House)</p> <ul style="list-style-type: none">• Increases the business and occupation tax small business credits• Increases the business and occupation filing threshold.
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HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass as amended. Signed by 17 members: Representatives Frame, Chair; Berg, Vice Chair; Walen, Vice Chair; Orcutt, Ranking Minority Member; Dufault,

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.

Assistant Ranking Minority Member; Chase, Chopp, Harris-Talley, Morgan, Orwall, Ramel, Springer, Stokesbary, Thai, Vick, Wylie and Young.

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 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 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.

Small Business Tax Credit.

A taxpayer may also be eligible for a small business credit that will either eliminate or reduce their B&O tax liability. The credit varies depending on the amount of B&O tax due after the business takes other available B&O tax credits. 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 small business tax credit (SBTC) is available if a business's taxable income was 50 percent or more from service-related business activities and the business's total B&O tax liability is below:

- \$141 for monthly taxpayers;
- \$421 for quarterly taxpayers; or
- \$1,681 for annual taxpayers.

An SBTC is available if a business's taxable income was less than 50 percent for service-related business activities and the business's total B&O tax liability is below:

- \$71 for monthly taxpayers;
- \$211 for quarterly taxpayers; or
- \$841 for annual taxpayers.

Tax Preference Performance Statement.

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 (TPPS) 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.

Summary of Amended Bill:

The B&O SBTC is increased to \$160 per month for service businesses and \$55 per month for all other businesses.

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 DOR and has annual gross proceeds of sales, gross income, or value of products for all B&O tax classifications of less than \$125,000.

This act applies to reporting periods on or after January 1, 2023.

This act is not exempt from the requirements of a TPPS, a JLARC review, and the automatic 10-year expiration.

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 impact of COVID-19, the supply chain challenges, inflation, and workforce shortages are all stressing small businesses. This bill will help small businesses with their recovery and rewards their perseverance. The small business tax credit has not

been adjusted for decades and it seems appropriate to adjust the small business tax credit and the filing threshold to reflect the current times. Moreover, there is a revenue surplus that provides the ability to provide much needed relief. This bill provides a bridge while the Tax Structure Work Group completes their work to find a better alternative to the current B&O system.

(Opposed) None.

Persons Testifying: D'Arcy Harrison, Emerson Salon; Susann leRoy, Red Willow Salon; and Patrick Connor, National Federation of Independent Business.

Persons Signed In To Testify But Not Testifying: None.