
Finance Committee

HB 1115

Brief Description: Concerning the excise tax treatment of amounts received by title and escrow businesses from clients for remittance to a county filing office for the purpose of recording documents.

Sponsors: Representatives Tharinger, Corry and Wylie.

Brief Summary of Bill
<ul style="list-style-type: none">Excludes amounts remitted to a county filing office by escrow agents from the definition of retail sale and from the business and occupation tax in certain circumstances.

Hearing Date: 1/28/25

Staff: Kristina King (786-7190).

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 and wholesaling; 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. There are many specialized B&O tax rates and preferential rates that apply

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to specific business activities. In addition, a taxpayer may be eligible to utilize tax preferences, including credits and deductions, to reduce their tax liability.

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 \$125,000 per year.

Sales and Use Tax.

Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes are not collected when the user acquires the property, digital product, or service, then use tax applies to the value of property, digital product, or service when used in this state. The state, all counties, and all cities levy retail sales and use taxes. The state sales and use tax rate is 6.5 percent; local sales and use tax rates vary from 0.5 percent to 4.1 percent, depending on the location.

The definition of retail sale includes escrow services, including amounts received by escrow agents from customers for document recording fees and surcharges that are remitted on behalf of their customers.

Document Recording Fees and Surcharges.

Document recording serves a public accessibility and preservation function. A wide range of documents can be publicly recorded and are potentially subject to document recording fees and surcharges. There is no comprehensive list of the types of documents that can be recorded, but many fall into the category of real estate: deeds, liens, deeds of trust, covenants, easements, leases, plats, and surveys.

Fees for recording a document are set by statute, collected by county auditors, and distributed to certain funds and programs. There is a \$5 fee for recording the first page of a document and a \$1 fee for recording each additional page. In addition to the document recording fees, there are several document-recording surcharges some of which support the following: the preservation and accessibility of permanent documents, the State Library Operations, the State Library Archives Building, urban planning, and affordable housing.

These surcharges generally apply to all documents recorded, although some surcharges include exceptions for certain types of documents. The county auditor additionally charges a covenant homeownership program assessment of \$100 for each document recorded, with certain exceptions. For standard documents with no applicable exceptions, the total document recording fee, is approximately \$303.50.

Tax Preference Performance Statement.

Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. There are over 700 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 Bill:

Amounts remitted to a county filing office by escrow agents for the purpose of recording documents, if separately identified on a settlement statement, HUD-1, or closing disclosure, are excluded from the definition of retail sale and are exempted from business and occupation tax.

An exemption from a TPPS, JLARC review, and the 10-year expiration is included.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on January 1, 2026.