

Explanatory Statement

The Law as it Presently Exists

The state of Washington does not currently impose an income tax or an excise tax on the receipt of income. The state does impose a business and occupation (B&O) tax on the privilege of engaging in various business activities in the state such as manufacturing, selling, or providing services. Although there are some limited deductions, the tax is generally imposed on the gross income of the business. The law authorizes a credit against the tax that is taken on the tax return filed by the business. The credit reduces the amount of tax owed by the business. For most businesses, the credit is \$35 times the number of months covered by the tax return.

For a business that files a tax return once a year, covering twelve months, the maximum credit is \$420 (\$35 x 12). For some businesses that provide services to their customers, the credit is \$70 times the number of months covered by the tax return. For such a business that files a tax return every month, the maximum credit that can be taken on the monthly return is \$70. If the tax exceeds the amount of the credit, the credit is reduced. If the tax owed is more than twice the amount of the credit, the credit is eliminated. The B&O tax is deposited in the state general fund.

The state, cities, counties, and other local jurisdictions are authorized to impose a property tax in varying amounts. The property tax is a tax based on the value of an owner's taxable property. The state is authorized to impose a property tax for the support of the common schools. The state property tax is one component of the total property tax bill received by a property owner, which also includes property taxes levied by other authorized jurisdictions. The procedure for imposing the tax begins when the state levies the tax. The levy is the total amount of tax the state is authorized to collect. The levy is calculated based on certain constitutional and statutory requirements and limitations. Once the total amount of the state school levy is determined, it is divided by the value of all of the taxable property in the state to determine the rate of the tax. The rate of the property tax is also subject to certain constitutional and statutory requirements. The amount of state property tax a property owner pays is determined by multiplying the tax rate by the value of his or her taxable property. The state property tax is deposited in the state general fund and the student achievement fund for later distribution to the school districts.

The Effect of the Proposed Measure if Approved

If approved, this measure would impose an excise tax on the receipt of taxable income beginning in 2012. For a married individual filing a joint return with his or her spouse and for every surviving spouse, the tax would be as follows:

Taxable Income	Tax
\$0-\$400,000	\$0
\$400,001-\$1,000,000	5% of the amount above \$400,000
\$1,000,001 and above	\$30,000 plus 9% of the amount above \$1,000,000

For every individual, other than a surviving spouse, who is not married, and for a married individual who does not file a joint return with his or her spouse, the tax would be as follows:

Taxable Income	Tax
\$0-\$200,000	\$0
\$200,001-\$500,000	5% of the amount above \$200,000
\$500,001 and above	\$15,000 plus 9% of the amount above \$500,000

This measure would also increase the credit against the B&O tax to \$4,800 a year. If the tax exceeds the amount of the credit, the credit would continue to be reduced. If the tax owed is more than twice the amount of the credit, the credit would continue to be eliminated.

This measure would also reduce the state property tax levy. The state levy would be calculated in the way it currently is, and that figure would be reduced by twenty percent. The reduced levy would be divided by the value of all of the taxable property in the state to determine the rate of the tax. The amount of state property tax a property owner pays would continue to be determined by multiplying the tax rate by the value of his or her taxable property. The twenty percent levy reduction would not apply to property taxes imposed by other jurisdictions.

Before spending the revenue generated by the tax imposed by this measure, the state treasurer would be required to calculate the loss to the general fund resulting from the increase in the B&O tax credit and the reduction of the state property tax levy, and deposit the revenue generated by the new tax into the state general fund to replace the lost revenue.

After the state treasurer has made the deposit to the general fund to replace the lost revenue, the additional revenue generated by the tax imposed by this measure would be deposited in a dedicated account in the state treasury. Seventy percent of the revenue deposited in this dedicated account would be deposited in the education legacy trust account. Funds in the education legacy trust account may be used to enhance student achievement in grades K-12 by, for example, reducing class size, establishing special tutoring programs, or providing professional development for educators. The funds may also be used to expand access to higher education. Thirty percent of the funds deposited in the dedicated account would be used to supplement the state's basic health plan, provide for state and local public health services, provide long-term care services for seniors and people with disabilities, and for other health services.

The tax imposed by this measure would apply differently to residents and nonresidents of Washington. The tax is imposed on all of the taxable income of a resident. For a nonresident, the tax would be imposed on all the taxable income derived from sources within Washington. A resident of Washington would include an

individual who lives in the state all year or claims Washington as his or her home for federal income tax purposes. It would also include an individual who considers Washington his or her residence, unless the individual does not maintain a permanent residence in Washington or any other place, and does not spend more than thirty days in Washington during the tax year. An individual who does not consider Washington his or her residence, but maintains a permanent residence in Washington and spends one hundred eighty-three (183) days in the state would be considered a resident unless the individual satisfies the Department of Revenue that he or she is only in Washington for temporary or transitory purposes.

The tax imposed by this measure would apply to taxable income. Taxable income is adjusted gross income, as determined under the federal internal revenue code, less two adjustments set out in the measure. First, taxable income would not include income that is exempt from state income tax under federal law. Second, because a nonresident's adjusted gross income may include income derived from sources outside of Washington, the measure sets out requirements to calculate a nonresident's taxable income that is derived from sources within Washington.

Employers would be required to withhold estimated tax and pay it to the Department of Revenue. The amount withheld would be a credit against any tax due during the taxable year. An employer who collected the estimated tax and failed to pay it to the Department would be personally liable to the state for the amount of the tax, plus interest and a penalty. An employer who fails to collect the estimated tax would be personally liable to the state for the amount of the tax, unless the failure was due to a reasonable cause and not willful neglect. It would be a gross misdemeanor for an employer to appropriate or convert the estimated taxes withheld. An individual, who is required to make estimated tax payments under the internal revenue code, must also make estimated payments to the Department.

Only married couples filing a joint return or a surviving spouse with taxable income in excess of \$400,000 or an individual with taxable income in excess of \$200,000 would be required to file a state tax return. If a married couple files a joint federal income tax return, they would be required to file a joint state tax return, unless one spouse is a Washington resident and the other is not. The date for filing the state tax return is the due date for the federal income tax return. The Department of Revenue would use the taxpayer's federal tax return as the main source of taxpayer information. Individuals subject to the tax imposed by this measure would be required to keep records, and the Department of Revenue would be authorized to inspect those records.

The Department of Revenue would be required to refund all taxes improperly paid or collected. State law governing the administration of other state taxes would also apply to the tax imposed by this measure. The Board of Tax Appeals would have jurisdiction over appeals relating to the taxes imposed by this measure.

The provisions of the internal revenue code would apply unless they are inconsistent with this measure. The internal revenue code is the United States Internal Revenue Code of 1986, and the amendments in effect on January 1, 2010. The Department of Revenue is authorized to adopt rules under the Administrative Procedure Act. The rules should be consistent with the internal revenue code, to the extent possible without being inconsistent with this measure.

The measure would provide that the tax imposed may not be increased for any income level without a majority vote of the legislature and approval of the voters in an election.