

Business Taxes, Licenses & Fees

Background:

The Washington Alliance for a Competitive Economy reports Washington has the 15th highest cost of doing business in the nation. One of the largest costs for employers is the Business and Occupation (B&O) tax, a gross receipts tax levied for the privilege of doing business in Washington. Thirty-eight cities also impose a separate local B&O tax. While, state B&O taxes are primarily collected electronically, the DOR does not administer or collect local B&O taxes, all of which must be filed and paid separately.

Multiple other revenue sources are levied on business by state and local governments including taxes on utilities, real estate transfers, cigarettes, other tobacco products, carbonated beverages, employee head taxes, square footage taxes and estate taxes.

Licenses and fees are also a key business cost. Washington lawmakers established the master business license application in the mid 90's to ease the process of licensing making through a one-stop application process. However, not all business licenses and few city licenses are available on the master application. During the 2010 legislative session, numerous sweeping changes were made to the business and occupation tax including the adoption of economic nexus standards and single-factor receipts based apportionment formula for service and royalty income; taxation of corporate director compensation; and an increase of the B&O tax on services and other activities by .03 percent. The 2010 legislature also directed the Department of Revenue to study intercompany transactions and provide a final report by 2011.

Problem:

Significant problems exist with state and local business taxes, licenses and fees. We have thirty-eight cities and the Department of Revenue to pay taxes - this means thirty-nine forms to fill out, thirty-nine governments to pay taxes to and thirty-nine potential different interpretations. The lack of uniformity and centralization of administration and collection of the B&O tax system makes our state B&O tax system unnecessarily complex and does nothing to ensure consistent application and fair allocation of the B&O tax among multiple jurisdictions. Family owned businesses are faced with an unfair and high rate for the state estate tax. Taxpayers with environmental clean-up costs are faced with complicated tax codes that make cleaning up sites more difficult and costly. These sites when cleaned up would enhance the property use, allow more tax revenue and create new jobs. Other unnecessary complications exist in the tax code. For example, the staffing industry is required to collect B&O tax on the worker's individual assigned tasks rather than the classification of the employer the worker is placed at the staffing industry classification. With the exception of digital products business input exemption, the B&O tax system does not allow for deductions on labor, materials, taxes, or other costs of doing business. The "pyramiding" of taxes often exist on intercompany and affiliate transactions.

Master business license applications are incomplete and force employers to work with individual cities and agencies rather than meeting the goal of a one-stop function. Cities are more and more aggressive in seeking employers that may owe them taxes based on information given to them from the Department of Revenue sales tax reports for destination sourcing, regardless of if they have a physical presence.

Employers are also struggling to implement tax policy changes from the tax avoidance legislation, economic nexus changes and corporate director fees in addition to absorbing the costs from the 2010 B&O tax on services and other tax and fee increases.

Solution:

Washington's business taxes, licenses and fees are far from perfect and the business community is committed to reviewing proposals to the existing or alternative tax structures that do not have a detrimental impact on economic development and commerce. In the near term, there are several reforms that policymakers should consider to address the negative effects these costs have on our state employers.

1. Prevent new costs on business through increased or new taxes, licensing requirements or fees and consider eliminating existing non-uniform taxes.
2. Transfer the duty to collect and administer local B&O and public utility taxes to the Department of Revenue, require a consistent state and local B&O code that is applied uniformly among jurisdictions and prevent discriminatory replacement taxes from being adopted.
3. Clarify that the presence in a local jurisdiction of delivery sales using third party delivery companies or deliveries in a company owned vehicles does not establish nexus for purposes of licensing or local business and occupation taxes.
4. Eliminate burdensome requirements, such as those imposed on the temporary staffing firms that determine the taxation of the staffing company by reference to the tasks that the customer has the temporary staff perform.
5. Require cities with license requirements to participate in the master business license application.
6. Protect family owned business through a deduction from the state estate tax similar to what already exists for farmers. If the federal government reinstates the state death tax credit, enact a state pick-up tax credit equal to the state death tax credit amount.
7. Allow deductions for the amount of state imposed taxes levied on products other than retail sales tax (such as carbonated beverage and other seller or wholesale taxes) to be deducted from gross revenues for purposes of a business' B&O tax calculations.