

Washington creates, expands, and extends tax preferences

July 19, 2013

In brief

On June 30, 2013, Washington enacted [S.B. 5882](#), which creates, expands, and extends tax preferences for certain activities. The enacted preferences include the creation of a B&O exemption for qualified payroll and human resource companies, the creation of a sales tax exemption for the sale of certain financial data, and a temporary B&O exemption for sales of certain dairy products. For businesses providing one of the noted products or services, a Washington tax preference may be available.

In detail

A 'tax preference' under Washington law refers to an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate.

S.B. 5882 provides various tax preferences relating to the following products and services:

- honey bee keepers
- clay targets
- products that impart flavor to food
- cooperative finance organizations
- amusement and recreation services with regard to dancing
- solar extension and small solar extension

- hog fuel
- large airplanes
- blood banks
- mint growers
- nonprofit fund-raising activities
- renewable energy extension.

The following discussion highlights three significant changes: (1) a B&O exemption concerning certain payroll services; (2) a sales and use exemption for the sale of qualified financial data; (3) and a B&O exemption relating to certain dairy products. The bill contains both legislative findings and the new or amended statutory provisions.

B&O exclusion for payroll costs made within a centralized payroll system

The legislature recognized the confusion under current law

regarding the requirements for payroll reimbursements made within an affiliate group to qualify for a B&O pass-through exclusion. Current law may result in an additional layer of tax for businesses with Washington nexus utilizing a centralized payroll system. Accordingly, the legislature found it appropriate to create an exclusion for payroll cost reimbursements within a centralized payroll reporting system.

Effective October 1, 2013, a B&O tax exemption is provided for amounts received by a qualified employer of record that provides payroll and related human resource services to an affiliated company (companies under common control). The exemption is for amounts received by the qualified

employer for an affiliate's employee costs (wages and salaries, benefits, or other assessments paid to or on behalf of the employee). However, the B&O tax exclusion is not allowed for employee costs if the employer of record has a contractual obligation to provide services other than paymaster services to the affiliated business.

Although the legislative intent is not to create a B&O tax refund opportunity, the bill states the exemption is an adoption of current tax policy. The bill does not provide an expiration date for this exemption.

Sales tax exemption for investment data sold to investment firms

The legislature found that, in 2007, Washington created a sales and use tax exemption for sales of electronically delivered financial information made to an investment management company or financial institution. Subsequent legislation imposed sales and use tax on most digital services, but provided a broad business exemption for digital goods. The exemption for electronically delivered financial information was repealed due to the belief that the broad business exemption would cover such transactions. However, the delivery method of data transmissions by data providers to investment firms has evolved over time such that the transmissions are becoming subject to sales and use tax. For instance, data providers have enhanced online products with certain tools, including search capabilities. While these products are still digital products, they may fall outside of the definition of a digital good. Since the business use exemption applies only to digital goods and not all digital products, such transactions were subject to sales and use tax.

The legislature intends, with S.B. 5882, to exempt certain financial information purchased by international investment management companies from sales and use tax. Effective from October 1, 2013 to June 30, 2021, a sales and use tax exemption exists for the sale of tangible or digital 'standard financial information' to qualifying international investment management companies. The exemption is capped at \$15 million of exempt purchases.

'Standard financial information' is defined as financial data, facts, or information, or financial information services, not generated, compiled, or developed only for a single customer. Standard financial information includes, but is not limited to, financial market data, bond ratings, credit ratings, and deposit, loan, or mortgage reports.

A 'qualifying international management company' is a company that: (1) is primarily engaged in the business of providing investment management services; and (2) has gross income that is at least 10% percent derived from providing investment management services to:

- persons or collective investment funds residing outside the US; or
- collective investment funds with at least 10% of their investments located outside the US.

B&O exemption and preferential rate for dairy products

The legislature expressed that its intent in enacting dairy incentives under S.B. 5882 is to encourage infant formula producers to locate new facilities or expand existing facilities in Washington through an extension of a preferential business and

occupation tax rate for dairy producers.

Under current law, a B&O tax exemption is provided for gross proceeds derived from: (1) manufacturing dairy products; and (2) selling manufactured dairy products to purchasers who transport the goods outside of the state in the ordinary course of business. This exemption expires on July 1, 2015, at which time such gross proceeds will be subject to the preferential B&O tax rate of 0.138 percent (the general manufacturing rate is 0.1496%).

S.B. 5882 makes the following changes regarding gross proceeds received by a manufacturer of dairy products sold to a purchaser who uses such dairy products as an ingredient or component in the manufacturing of a dairy product:

- from October 1, 2013 to June 30, 2015, such proceeds are included within the dairy product manufacturer exemption
- from July 1, 2015, to June 30, 2023, the preferential 0.138% tax rate applies to such proceeds.

The takeaway

Washington Governor Jay Inslee signed the 2013 -2014 operating budget on June 30, 2013 which allowed the government to avoid a shutdown on July 1, 2013. There are a number of special interest changes included in the budget related to the products and services summarized above. If your business provides one of the noted products or services, a Washington tax preference may be available for such transactions in Washington.

Let's talk

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