

#### SUMMARY OF 2012 TAX LEGISLATION

### Washington Department of Revenue Research and Fiscal Analysis Division and Office of Legislation and Policy

#### **May 2012**

This report summarizes significant revenue and tax legislation that was approved during the November 2011 general election and the regular, first, and second special sessions of the 2012 Washington State Legislature. It also summarizes legislation that relates to fees, licenses, and registrations that are issued and collected by the Business Licensing Service (BLS) administered by the Department. The material was compiled from information developed by the Office of Legislation and Policy and the Research and Fiscal Analysis Division. The summary is not intended to cover technical details or provide a legal interpretation of the bills. Rather, its primary purposes are to alert agency personnel of the changes, assist in developing implementation programs, and serve as a resource for historical research.

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STATE REVENUE IMPACT OF MAJOR 2011 TAX LEGISLATION - Sources Impacting Dept. of Revenue Only							
		State Gener	al Fund				
Bill Num	Bill Description	FY 2012	FY 2013	2011-13 Bien	FY 2014	FY 2015	2013-15 Bien
House Bills:	·						
SHB 2149	Personal property tax penalty waiver	\$0	(\$6,066,000)	(\$6,066,000)	\$0	\$0	\$0
HB 2224	Washington estate tax apportionment	\$0	\$0	\$0	\$0	\$0	\$0
SHB 2357	Chemical dependency and mental health	\$0	\$0	\$0	\$0	\$0	\$0
SHB 2389	Economic and revenue forecasts <sup>1</sup>			\$0			\$0
HB 2482	Innovation partnership zones <sup>1</sup>			\$0			\$0
ESHB 2502	Removal of land from forest land classification	Indeterminate	Indeterminate	\$0	Indeterminate	Indeterminate	\$0
3E2SHB 2565	Roll-your-own cigarette machines at retail establishments	\$0	\$12,027,000	\$12,027,000	\$13,122,000	\$13,122,000	\$26,244,000
SHB 2590	Extension of petroleum products tax	\$0	\$0	\$0	\$0	\$0	\$0
SHB 2617	School district financial insolvency	\$0	\$0	\$0	\$0	\$0	\$0
HB 2758	Collection of spirits taxes	Indeterminate	Indeterminate		Indeterminate	Indeterminate	\$0
HB 2822	Local sales and use tax deposits and distributions	\$0	\$0	\$0	\$0	\$0	\$0
HB 2823	Redirecting existing state revenues into the state general fund	\$34,424,000	\$64,491,000	\$98,915,000	\$37,357,000	\$39,190,000	\$76,547,000
Senate Bills:							
SSB 5381	Renewal of emergency medical service levies <sup>1</sup>			\$0			\$0
E2SSB 5539	Motion picture competitiveness	\$0	(\$350,000)	(\$350,000)	(\$350,000)	(\$3,500,000)	(\$3,850,000
SSB 5984	Local government financial soundness	\$0	\$0	\$0	\$0	\$0	\$0
SSB 6073	State Route 16 corridor improvements project	\$0	(\$4,402,000)	(\$4,402,000)	(\$4,402,000)	(\$4,402,000)	(\$8,804,000)
SSB 6159	B&O tax deduction for dispute resolution services	\$0	(\$8,000)	(\$8,000)	(\$8,000)	(\$8,000)	(\$16,000)
SSB 6277	Property tax exemption for multiple-unit dwellings	\$0	\$0	\$0	(\$31,000)	(\$60,000)	(\$91,000)
SSB 6371	Customized employment training program	\$0	(\$6,000)	(\$6,000)	(\$6,000)	(\$6,000)	(\$12,000)
SSB 6600	Property tax exemption for certain leased property	\$0	\$0	\$0	\$0	\$0	\$0
ESB 6635	Repealing, modifying, or revising tax preference and license fees	\$0	\$2,746,000	\$2,746,000	(\$361,000)	(\$806,000)	(\$1,167,000)
NET GENERAL FUND IMPACT		\$34,424,000	\$68,432,000	\$102,856,000	\$45,321,000	\$43,530,000	\$88,851,000

	BLS L	icense, Fee & R	egistration Bill	S			
Bill Num	Bill Description (Fund)	FY 2012	FY 2013	2011-13 Bien	FY 2014	FY 2015	2013-15 Bien
SHB 2239	Social purpose corporations <sup>1</sup>						
SB 5981	Seed dealer license fees <sup>1</sup>						
SB 6046	Gambling commission and staggered license renewals <sup>1</sup>						
	State Fund	ds other than Ge	eneral or BLS F	unds			
Bill Num	Bill Description (Fund)	FY 2012	FY 2013	2011-13 Bien	FY 2014	FY 2015	2013-15 Bien
3E2SHB 2565	Roll-your-own cigarette machines at retail	\$0	\$2,000	\$2,000	\$2,000	\$2,000	\$4,000
	establishments - Perf Audit Account						
HB 2823	Redirecting existing state revenues into the state	\$0	(\$28,767,000)	(\$28,767,000)	\$0	\$0	\$0
	general fund - Liquor Excise Tax						
HB 2823	Redirecting existing state revenues into the state general fund - Public Works Assistance	(\$34,424,000)	(\$35,724,000)	(\$70,148,000)	(\$37,357,000)	(\$39,190,000)	(\$76,547,000)
SSB 6073	State Route 16 corridor improvements project - Perf	\$0	(\$7,000)	(\$7,000)	(\$7,000)	(\$7,000)	(\$14,000)
	Audit Account						
ESB 6635	Repealing, modifying, or revising tax preference and	\$0	\$0	\$0	(\$4,000)	(\$8,000)	(\$12,000)
	license fees - Perf Audit Acct						
<sup>1</sup> The Departn	nent did not receive a fiscal note request for proposal.						

#### **INITIATIVES**

### Initiative 1183 Relating to liquor (Chapter 2, Laws of 2012)

This initiative to the people privatizes the sale of spirits in this state and was approved by the voters in the November 2011 general election. The initiative made no substantive changes to the existing spirits sales and liter taxes imposed in RCW 82.08.150. Businesses that are licensed by the Liquor Control Board to sell spirits will collect the applicable spirits sales and liter taxes from their customers and remit the taxes monthly to the Department of Revenue.

Although I-1183 was effective December 8, 2011, the initiative provides various effective dates leading up to the completed transition to privatized sales of spirits effective June 1, 2012.

#### **HOUSE BILLS**

SHB 2149 Relating to personal property tax assessment administration, authorizing waiver of penalties and interest under specified circumstances

(Chapter 59, Laws of 2012)

This bill allows a county's legislative authority to authorize its county assessor to waive the late filing penalties for 2011 and prior assessment years for personal property tax if the taxpayer:

- Files with the assessor a correct list and statement of taxable personal property and completes an application for a penalty waiver on or before July 1, 2012; and
- By September 1, 2012, makes full payment of all tax liabilities for which a penalty waiver is requested.

Taxpayers receiving penalty relief may not seek a refund or otherwise challenge the amount of tax liability paid as a condition for receiving a penalty waiver. Personal property listed by the taxpayer is subject to verification by the assessor, and any unreported or misreported property remains subject to taxes, penalties, and interest.

SHB 2149 took effect March 20, 2012.

### HB 2224 Relating to Washington estate tax apportionment (Chapter 97, Laws of 2012)

This bill amends the Washington Uniform Estate Tax Apportionment Act to relieve smaller beneficiaries from having to pay a share of an estate's estate tax liability. The estate tax associated with the exonerated gifts is reapportioned among the beneficiaries receiving non-exonerated gifts. As a result, this bill does not reduce state estate tax revenues.

HB 2224 takes effect June 7, 2012.

## SHB 2357 Relating to sales and use tax for chemical dependency, mental health treatment, and therapeutic courts (Chapter 180, Laws of 2012)

This bill affects the 0.1 percent sales and use tax authorized in RCW 82.14.460 for operating chemical dependency/mental health treatment programs and therapeutic court programs and services. Counties with a population greater than 25,000 and cities with a population over 30,000, where the county or city first imposes the tax after December 31, 2011, may use a portion of the tax revenues to supplant existing funding for these purposes as follows:

- Up to 50 percent of the taxes collected may be used to supplant existing funding for the first three calendar years following enactment of the tax; and
- Up to 25 percent of the taxes collected may be used to supplant existing funding for the fourth and fifth years after enactment of the tax.

SHB 2357 takes effect June 7, 2012.

## SHB 2389 Relating to modifying the submission dates for economic and revenue forecasts (Chapter 182, Laws of 2012)

This bill moves the dates for submitting the June and September economic and revenue forecasts to the Governor and Legislature from the 20<sup>th</sup> to the 27<sup>th</sup> of the month.

SHB 2389 takes effect October 1, 2012.

### HB 2482 Relating to designating Innovative Partnership Zones (Chapter 225, Laws of 2012)

This bill allows the rural county sales and use tax authorized in RCW 82.14.390 to be used for research, testing, training, and incubation facilities located in Innovation Partnership Zones.

HB 2482 takes effect June 7, 2012.

# ESHB 2502 Relating to modifying exceptions to the compensating tax provisions for removal from forest land classification to more closely parallel open space property tax provisions (Chapter 170, Laws of 2012)

This bill makes changes to the designated forest land property tax program, which allows eligible forest land to be valued for property tax purposes based on its use for growing and harvesting timber instead of its highest and best use.

When land is removed from designation as forest land, it is assessed for property tax purposes at its true and fair value unless the land is reclassified (i.e., transferred to a classification under chapter 84.34 RCW). In addition, compensating tax is imposed unless an exemption applies. One exemption to the payment of compensating tax is when a property interest in forest land is transferred for conservation purposes to a governmental entity, nonprofit historic preservation corporation, or nonprofit nature conservancy corporation. This exemption currently applies only in counties with a population over 600,000. This bill expands the exemption to include counties with a population of at least 245,000 that border Puget Sound (currently Thurston and Kitsap counties).

When land is reclassified from designated forest land to a classification under chapter 84.34 RCW and is later removed from classification, it is assessed at its true and fair value. And if the removal from classification occurs before 10 years has passed since the land was reclassified, a combination of additional tax, interest, and penalty, and compensating tax are imposed unless an exemption applies. However, there is an exemption from the payment of the compensating tax portion when the removal from classification is a result of a transfer that qualifies for one of the exemptions from payment of additional tax, interest, and penalty under chapter 84.34 RCW. Currently, this exemption from the compensating tax portion only applies if the land is located in a county with a population over 600,000. This bill expands that exemption to include counties with a population of at least 245,000 that border Puget Sound.

ESHB 2502 takes effect June 7, 2012.

3E2SHB 2565 Relating to persons who operate a roll-your-own cigarette machine at retail establishments.

(Chapter 4, Laws of 2012, 2nd Special Session)

This bill requires retailers who provide consumers with access to a commercial roll-your-own (RYO) cigarette-making machine to:

- Affix tax stamps to each container provided to customers for use in transporting RYO
  cigarettes from the retailer's place of business. The container must be provided
  contemporaneously with the use of the RYO cigarette-making machine;
- Provide cigarette tubes to customers in one or more 20-unit denominations; and
- Pay a fee of \$93 for a license to operate an RYO cigarette-making machine. This fee is in addition to the cigarette retailer's license fee.

#### The bill also:

• Requires RYO cigarette-making machines to have a secure meter that counts the number of cigarettes produced by the machine;

- Provides retailers who purchase cigarette tax stamps for RYO cigarettes with compensation to offset the other tobacco products tax paid on the loose tobacco used in RYO cigarettes. The amount of compensation is equal to five cents per cigarette;
- Extends existing penalties on unstamped cigarettes to unstamped RYO cigarettes (\$10 per 20 RYO cigarettes);
- Makes it a gross misdemeanor (1) for a retailer to provide consumers with access to an RYO cigarette-making machine without providing a container that has the appropriate tax stamp or stamps and (2) to use a stamped container more than once for transporting RYO cigarettes from the retailer's place of business;
- Amends the definition of cigarette for cigarette tax purposes to include a specific reference to RYO cigarettes; and
- Makes RYO cigarette-making machines used in violation of the cigarette tax laws subject to seizure and forfeiture.

3E2SHB 2565 takes effect July 1, 2012.

## SHB 2590 Relating to extending the expiration of the Pollution Liability Insurance Agency's authority and its funding source (Chapter 3, Laws of 2012, 1st Special Session)

This bill continues the pollution liability insurance and underground storage tank community assistance programs administered by the Pollution Liability Insurance Agency and:

- Extends the petroleum products tax (PPT) to July 1, 2020;
- Reduces the PPT rate from 0.5 percent to 0.3 percent; and
- Provides that for petroleum products introduced at the rack (a mechanism for making non-bulk transfers at a refinery or terminal), the wholesale value for purposes of determining the PPT is determined when the petroleum product is removed from the rack.

SHB 2590 takes effect July 10, 2012.

### SHB 2617 Relating to school district financial insolvency (Chapter 186, Laws of 2012)

This bill establishes criteria for a school district to be identified as financially insolvent and establishes a process by which a financially insolvent school district may be dissolved and its territory annexed by or transferred to one or more contiguous school districts. The bill also contains provisions relating to property tax levies, including (1) levies for paying the bonded indebtedness of a dissolved school district, (2) extending any pre-existing excess levy of a school district to territory received from a financially insolvent school district, and (3) authorizing replacement or supplemental levies, upon voter approval, by a school district annexing or receiving territory from a financially insolvent school district. Additionally, the bill specifies that for property tax purposes, the boundaries of a school district that annexes or receives territory

from a financially insolvent school district must be established on September 1st of the year in which a levy is to be made for the enlarged school district.

SHB 2617 takes effect September 1, 2012.

## HB 2758 Relating to strengthening the Department of Revenue's ability to collect spirits taxes imposed under RCW 82.08.150 (Chapter 39, Laws of 2012)

This Department of Revenue request legislation grants the Department authority to request the Liquor Control Board (LCB) suspend or deny issuance or renewal of a spirits license if a licensee or license applicant is more than 30 days delinquent in reporting or paying spirits taxes to the Department. The bill also makes other changes to strengthen spirits tax enforcement.

Additional spirits tax enforcement authority was made necessary by the privatization of spirits sales as a result of the passage of Initiative 1183 at the November 2011 general election. Before the initiative, spirits taxes were only collected by the LCB. However, when the transition to privatized spirits sales is complete on June 1, 2012, there will be a significant number of businesses collecting spirits taxes and remitting those taxes to the Department.

HB 2758 took effect March 15, 2012.

### HB 2822 Relating to local sales and use tax account deposits and distributions (Chapter 9, Laws of 2012, 2nd Special Session)

This bill changes the frequency that the Department of Revenue deposits local sales and use tax collections into the local sales and use tax account from daily to monthly. The bill also reimburses local governments for the foregone interest resulting from the switch to monthly deposits.

HB 2822 takes effect July 10, 2012.

### ESHB 2823 Relating to redirecting existing state revenues into the state general fund

(Chapter 5, Laws of 2012, 2nd Special Session)

#### This bill:

- Suspends annual transfers of \$102 million to the education construction fund from the state general fund during the 2013-2015 Biennium.
- Continues to redirect the solid waste collection tax from the public works assistance account to the state general fund as follows:
  - o 100 percent of the tax from July 1, 2011, through June 30, 2015.
  - o 50 percent of the tax during Fiscal Years 2016, 2017, and 2018.

- Suspends distributions of spirits taxes to local governments and redirects those revenues to the state general fund during FY 2013.
- Transfers \$2.5 million from the liquor excise tax fund to the state general fund beginning in October 2013.
- The county research services account and the city and town research services account are eliminated, and any remaining moneys in those accounts are deposited into the state general fund
- Before distributing the counties' portion of the liquor excise tax fund, the State Treasurer
  must transfer an amount to the liquor revolving fund to support legislative appropriations for
  county research and associated services.
- Modifies the manner in which excess funds are distributed to cities, towns, counties, and border areas from the liquor revolving fund and requires that any remaining funds be deposited into the state general fund.
- Before distributing the cities' portion of the liquor revolving fund, an amount must be retained to support legislative appropriations for municipal research and associated services.

The provision of ESHB 2823 pertaining to the solid waste collection tax took effect May 2, 2012. All other provisions take effect July 1, 2012.

#### SENATE BILLS

SSB 5381 Relating to adjusting voting requirements for the renewal of emergency medical service levies (Chapter 115, Laws of 2012)

This bill allows a six-year or 10-year emergency medical services (EMS) levy to be renewed with a majority vote rather than a super majority vote. The bill maintains the requirement that the initial imposition of a permanent EMS levy or a six- or 10-year EMS levy be approved by a super-majority vote.

SSB 5381 takes effect June 7, 2012.

### E2SSB 5539 Relating to Washington's motion picture competitiveness (Chapter 189, Laws of 2012)

This bill reinstates and extends to July 1, 2017, the B&O tax credit for contributions made to the Washington Motion Picture Competitiveness Program (WMPCP). The WMPCP provides funding assistance to eligible production companies that film motion pictures, television shows, or television commercials in this state. The B&O tax credit was effective from July 1, 2006, to July 1, 2011.

This bill also:

- Requires the development of a new survey form to better measure the effectiveness of the program; and
- Expands the definition of "motion picture" to encompass all recorded audio-visual
  productions intended for distribution to the public for exhibition in public or private
  settings by means of any and all present and future delivery systems or delivery
  platforms.

E2SSB 5539 takes effect June 7, 2012.

### SSB 5984 Relating to local government financial soundness (Chapter 4, Laws of 2012)

This bill requires a self-funded independent financial feasibility review before a public facilities district (PFD) may form, issue debt other than refinancing, or lease, purchase, or develop a facility.

In addition, the bill authorizes a new local sales and use tax when a PFD has defaulted on bond anticipation notes or bonds in excess of \$40 million on or before April 1, 2012. The tax may be imposed by the city where the largest asset of the PFD is located. The rate of tax may not exceed 0.2 percent and must be used to refinance the PFD's debt and for other specified facility and legal costs. This tax may be imposed without voter approval and for no longer than 30 years.

The bill also prohibits a PFD and its forming jurisdictions from restricting the PFD's statutory taxing authority in any manner.

Provisions of SSB 5984 pertaining to the new local sales and use tax took effect March 1, 2012. All other provisions take effect June 7, 2012.

## SSB 6073 Relating to sales and use taxes related to the state route number 16 corridor improvements project (Chapter 77, Laws of 2012)

This bill extends by six years the sales and use tax deferral and repayment schedule for the construction of the second Tacoma Narrows Bridge. The first payment of deferred taxes, originally due December 2012, is now due December 2018.

SSB 6073 takes effect June 7, 2012.

SB 6159 Relating to a business and occupation tax deduction for amounts received with respect to dispute resolution services (Chapter 249, Laws of 2012 (partial veto))

This bill provides B&O tax deductions for amounts received by:

- Qualified dispute resolution centers (DRCs) as contributions from federal, state, and local governments, and nonprofit organizations, for providing dispute resolution services; and
- Nonprofit organizations from federal, state, and local governments, which are to be distributed to qualified DRCs.

SB 6159 takes effect June 7, 2012. A provision in the bill to make the deductions retroactive to prior tax periods was vetoed.

#### SSB 6277

Relating to creating authority for counties to exempt from property taxation new and rehabilitated multiple-unit dwellings in certain unincorporated urban centers (Chapter 194, Laws of 2012)

This bill expands the property tax exemption for eligible new, rehabilitated, or converted multiple-unit housing within residential targeted areas in urban centers. Currently, only certain cities are allowed to create residential targeted areas and offer this exemption. However, the bill makes the exemption available in residential targeted areas located in the unincorporated area of a county if (1) that area is within an urban growth area under the Growth Management Act and contains an institution of higher education where at least 1,200 students live on campus during the academic year and (2) the county has an unincorporated population of at least 350,000. For any multi-unit housing located in an unincorporated area of a county, a property owner seeking a property tax exemption must commit to renting or selling at least 20 percent of the multi-family housing units as affordable housing units to low- and moderate-income households.

SSB 6277 takes effect June 7, 2012.

### SSB 6371 Relating to extending the customized employment training program (Chapter 46, Laws of 2012)

This bill extends the expiration date of the Washington Customized Employment Training Program five years to July 1, 2017. It also extends the B&O tax credit to July 1, 2021, for employers participating in the program.

SSB 6371 takes effect June 7, 2012.

#### **SSB 6600**

Relating to extending property tax exemptions to property used exclusively by certain nonprofit organizations that is leased from an entity that acquired the property from a previously exempt nonprofit organization

(Chapter 76, Laws of 2012)

This bill allows property receiving a property tax exemption under RCW 84.36.030 to continue receiving the exemption when the property is transferred to an entity that would otherwise not qualify for the exemption if:

- That entity was formed exclusively for the purpose of leasing the property to an organization that will use the property for exempt purposes under RCW 84.36.030;
- The lessee uses the property for exempt purposes under RCW 84.36.030;
- The immediate previous owner of the property had received an exemption under RCW 84.36.020 or 84.36.030 for the property; and
- The benefit of the exemption inures to the benefit of the lessee organization.

SSB 6600 takes effect June 7, 2012.

## ESB 6635 Relating to improving revenue and budget sustainability by repealing, modifying, or revising tax preference and license fees (Chapter 6, Laws of 2012, 2nd Special Session)

The bill makes the following tax changes:

- The first mortgage interest B&O tax deduction is limited to financial businesses operating in 10 or fewer states.
- The current B&O tax exemption for fresh fruit and vegetable processors and seafood and dairy manufacturers is extended to July 1, 2015.
- A new window of April 1, 2012, through June 30, 2015, is provided for the construction of data centers into which power infrastructure and server equipment can be installed exempt from sales and use tax. Replacement server equipment for these new data centers can be purchased tax exempt until July 1, 2020. In addition, qualifying tenants of existing data centers can purchase replacement servers until July 1, 2020.
- The leasehold excise tax definition of "leasehold interest" is revised to exclude agreements granting preferential use of publicly owned cargo cranes and docks and associated areas used in the loading and discharging of cargo at a port district marine facility.
- The B&O taxation of newspapers is modified as follows:
  - o The definition of a "newspaper" is revised to include the electronic version of a printed newspaper. This amended definition expires July 1, 2015.
  - o The B&O tax rate for the printing or publishing of newspapers is increased from 0.2904 percent to 0.365 percent from July 1, 2012, through June 30, 2013.
  - o The B&O tax rate for the printing or publishing of newspapers is decreased from 0.365 percent to 0.35 percent from July1, 2013, through June 30, 2015, when the rate returns to 0.2904 percent.

The provisions of ESB 6635 that pertain to data centers take effect May 2, 2012. All other provisions take effect July 1, 2012.

#### BILLS AFFECTING THE BUSINESS LICENSING SERVICE (BLS)

### SHB 2239 Relating to social purpose corporations (Chapter 215, Laws of 2012)

This bill establishes a new type of corporation called the "social purpose corporation." Social purpose corporations are organized to promote social purposes as well as pursue profits. Like other for-profit corporations, social purpose corporations must register initially with the Washington Secretary of State's Office, and their registrations will be renewed through the BLS.

SHB 2239 takes effect June 7, 2012.

### SB 5981 Relating to seed dealer license fees (Chapter 61, Laws of 2012)

This bill increases the seed dealer license fee from \$25 to \$125. This license is issued through BLS.

SB 5981 takes effect June 7, 2012.

### SB 6046 Relating to the powers and duties of the Gambling Commission (Chapter 116, Laws of 2012)

This bill authorizes the Gambling Commission to issue licenses for up to 18 months. This will allow the Gambling Commission to have BLS issue and renew its licenses.

SB 6046 takes effect June 7, 2012.