



STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR

P.O. Box 47454 • Olympia, Washington 98504-7454 • (360) 534-1600 • FAX (360) 534-1606

October 31, 2018

TO: Brad Hendrickson, Secretary
Washington State Senate

Bernard Dean, Chief Clerk
Washington State House of Representatives

Keith Phillips, Executive Director of Policy
Office of the Governor

FROM: Randy Simmons, Acting Director
Department of Revenue

A handwritten signature in blue ink, appearing to read "Randy Simmons".

SUBJECT: EHB 2005 Local B&O Tax Apportionment Task Force Report

The attached report was prepared in response to Engrossed House Bill (EHB) 2005 (Chapter 209, Laws of 2017), which created a seven-member task force comprised of city and business representatives and chaired by the Department of Revenue. The legislation directed the task force to recommend changes to RCW 35.102.130 to:

- Simplify the two-factor apportionment formula for municipal business and occupation (B&O) taxes provided in RCW 35.102.130;
- Develop a method for assigning gross receipts to a local jurisdiction using a market-based model; and
- Focus on methods that rely on information typically available in commercial transaction receipts and captured by common business recordkeeping systems.

If you have any questions or need the report in an alternate format, please contact David Duvall, Legislative and External Affairs Liaison, Executive Division, at (360) 534-1545.

Attachment

cc: Drew Shirk, Executive Director, Legislative Affairs, Office of the Governor
David Schumacher, Director, Office of Financial Management
Roselyn Marcus, Assistant Director, Office of Financial Management
Dean Carlson, Senior Budget Assistant, Office of Financial Management

Local Business and Occupation Tax Apportionment Task Force

A report to the Legislature per
Engrossed House Bill 2005

October 31, 2018

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EXECUTIVE SUMMARY

This report was prepared in response to Engrossed House Bill (EHB) 2005 (Chapter 209, Laws of 2017), which created a task force to develop a recommendation for the state Legislature to simplify the two-factor apportionment formula for municipal business and occupation (B&O) taxes provided in RCW 35.102.130.

Overview

The legislation created a seven-member task force comprised of city and business representatives and chaired by the Department of Revenue (Department). The legislation directed the task force to recommend changes to RCW 35.102.130 to:

- Simplify the two-factor apportionment formula provided in RCW 35.102.130;
- Develop a method for assigning gross receipts to a local jurisdiction using a market-based model; and
- Focus on methods that rely on information typically available in commercial transaction receipts and captured by common business recordkeeping systems.

Recommendation

The task force met between August 2017 and September 2018 and was successful in developing a recommendation that achieves the directives mandated by the legislation. The recommendation, which is set forth in Appendix A:

- Simplifies the service income factor, adopting a sourcing hierarchy modeled on Massachusetts' apportionment rules;
- Contains a throw-out provision based on Washington's B&O tax throw-out provision in RCW 82.04.462 to address the cities' concern regarding attribution of income to jurisdictions in which the taxpayer is not taxable; and
- Establishes a consistent burden of proof for taxpayers and tax administrators seeking application of an alternative apportionment method when the statutory method does not fairly represent the extent of the taxpayer's business activity in the city.

INTRODUCTION

The Legislature created a task force in 2015 to develop options for the centralized and simplified administration of local B&O taxes and business licensing. With respect to apportionment of service income, that task force identified various challenges that cities and businesses faced in administering and complying with the two-factor apportionment formula and recommended that the Legislature appoint a separate working group (task force) dedicated to exploring options for simplifying the local apportionment formula in RCW 35.102.130.

The Legislature approved the recommendation, finding that non-uniformity and complexity in the current apportionment model resulted in administrative difficulties for both the cities and businesses. Thus, the Legislature enacted, and Governor Inslee signed, Engrossed House Bill (EHB) 2005 (Chapter 209, Laws of 2017) (see Appendix D).

EHB 2005 established a seven-member local B&O tax apportionment task force to prepare a report for the Legislature by October 31, 2018. This report presents the recommendations agreed to by the task force, with the specific recommended amendments to RCW 35.102.130 contained in Appendix A.

THE WORK OF THE TASK FORCE

Task Force Membership

The seven-member task force included three voting members representing the business community, three voting members representing cities that impose a local B&O tax (see Appendix C for a list of all cities that impose a B&O tax), and one non-voting member from the Department to serve as the chair.

Member	Representing
Kevin Dixon, Program Manager (Chair)	Department of Revenue
Chris Bothwell, Finance Director, City of Lake Forest Park	Association of Washington Cities
Joseph Cunha, Tax Administrator, City of Seattle	Association of Washington Cities
Danielle Larson, Tax & License Manager, City of Tacoma	Association of Washington Cities
Scott Edwards, Shareholder, Lane Powell	Association of Washington Business
Rachel A. Le Mieux, Partner, Peterson Sullivan LLP	Association of Washington Business
Dan Robillard, Director U.S. Indirect Tax, Expedia	Association of Washington Business

Discussion Topics & Process

As represented by its charter (see Appendix B), the task force determined it would meet the requirements of EHB 2005 by discussing the following key topics:

- Simplification of the two-factor apportionment formula
- Market-based apportionment models
- Ease of administration and compliance
- Economic impact
- Hierarchy of sourcing rules
- Alternative apportionment
- Industry-specific rules

Task Force Efforts

The task force conducted 14 monthly sessions between August 2017 and September 2018.

Various themes were explored, discussed, and presented in order to provide a comprehensive overview of the current challenges and opportunities for simplification. A progression of task force discussions included:

- Overview of apportionment, including challenges and improvement ideas from both the city and business perspective.
- Analysis of the current law and the application and administration of the payroll and service-income factors.
- Exploration of the primary market-based apportionment models and variations thereof.
- Defining key terms, including “market” and “customer.”
- Brainstorming what simplification looks like and how it is achieved under a market-based system.

- Comparing and contrasting real-world examples under the market-based models and the current system to determine whether simplification is achieved.
- Identifying challenges with the current apportionment model (e.g., customer location, cost of performance) and exploring solutions.

The task force discussed several challenges as it developed its recommendations that included:

- Potential complications with various market-based models;
- The impact of the physical nexus standard used by Washington cities for the B&O tax; and
- City concerns about potential revenue impacts of changes from the current two-factor apportionment model and the lack of information to develop estimates.

Report Required

EHB 2005 directed the task force to report its findings and recommendation to the Legislature by October 31, 2018. Although the charter created by the task force provided for the inclusion of a minority report if the majority could not reach consensus, the voting task force members unanimously approved the recommendation found in Appendix A and endorsed this report.

APPORTIONMENT OF SERVICE INCOME

Apportionment refers to a method of dividing a tax base between various jurisdictions in which a taxpayer engages in business. By apportioning income, businesses can proportionately divide their taxes among the various taxing jurisdictions in which business is conducted. Beginning in 1939, service income was apportioned for state B&O tax purposes in proportion to where the businesses' costs were incurred. While city B&O taxes varied from state B&O tax in numerous ways, cities that imposed a B&O tax generally adopted the same cost apportionment formula as the state. Effective in 2008, as part of a larger bill originally enacted in 2005, RCW 35.102.130 mandated that cities apportion service income for B&O tax purposes using a unique two-factor formula to apportion income based on the average of a "service-income" factor and a payroll factor.

In more recent years, states have been moving towards adoption of market-based apportionment formulas, which use a single factor, to apportion income proportional to the market for the taxpayer's goods and services. Washington replaced cost apportionment with a single factor, market-based apportionment formula for state B&O tax purposes in 2010. Currently, at least 24 states have adopted a market-based apportionment formula for sourcing income. Washington cities continue to use a two-factor apportionment formula for city B&O tax purposes as required by RCW 35.102.130.

The two-factor apportionment formula consists of a payroll factor and a service-income factor. Each factor separately has a three-part test for determining the total payroll and service income in the city, respectively.

Two-factor formula:

$$\text{Taxable Service Income} = \text{Total Service Income} \times \frac{(\text{Payroll Factor} + \text{Service-Income Factor})}{2}$$

$$\text{Payroll Factor} = \frac{\text{Total Compensation Paid in City}}{\text{Total Compensation Paid Everywhere}}$$

$$\text{Service-Income Factor} = \frac{\text{Total Service Income in City}}{\text{Total Service Income Everywhere}}$$

To apportion service income for city B&O tax purposes, businesses generally need the following information:

- Customer location, which, specifically, is where the majority of the "contacts" occurred between the business and the customer
- The location(s) where the service-income producing activity is performed, including costs of performance
- Total gross service receipts
- Total payroll for each employee
- Office location of each employee

Challenges with the Local Two-Factor Apportionment Formula

The unique two-factor apportionment formula prescribed under state law for the local taxation of service activities is difficult for cities to administer and businesses to understand and comply with. Largely, the difficulty with the formula is attributed to the service-income factor.

In calculating the service-income factor, a business must determine where each of its customers is located. “Customer location” is generally defined as the location where the majority of physical “contacts” between a business and its customer take place. Information regarding physical customer contacts is typically not documented by businesses in the course of executing transactions nor is it maintained in common business records. As a result, both cities and businesses have found the determination of where the customer location is, or more specifically, where the customer contacts occur, to be challenging, costly, and cumbersome.

Furthermore, cities and businesses have recognized that apportioning service income, per RCW 35.102.130, can be particularly difficult for small businesses that typically do not maintain the types of business records to adequately document the apportionment of service income. As such, an improved formula is desired.

Market-Based Models

As mandated by the Legislature, the task force spent considerable time exploring market-based apportionment models as a possible solution for simplifying the existing two-factor apportionment model.

Whereas a cost of performance apportionment methodology focuses on where the income-producing activity of a business is performed, a market-based model apportions income to the location where the service is delivered, received, or will subsequently be used by the customer. In short, a market-based model assigns income to the location where a business’ market exists.

Inherent in a market-based model is a recognition in the shift in how business is conducted. The availability of technology (e.g., Internet and other communication methods) means a service provider does not need to be where its customers are located. This likewise supports a shift from an outdated production model (cost of performance) to a more current market model.

Many jurisdictions around the country have adopted a variation of a market-based model. There are four primary categories of market-based models that the task force researched:

- Benefit received
- Services delivered
- Services received
- Customer location

TASK FORCE RECOMMENDATION

The task force reached a unanimous recommendation for revising RCW 35.102.130. The precise statutory changes recommended can be found in Appendix A.

Specifically, the two-factor apportionment model should be simplified as follows:

Service-Income Factor

The current service-income factor utilizes a customer location component that is determined based on where a business has physical contacts with its customer. The task force recommends applying a market-based model to the service-income factor by redefining “customer location.”

Redefining “Customer Location”

Under a market-based approach, “customer location” will be redefined to mean the following:

- 1) For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.
- 2) For a customer not engaged in business, if the service does not require the customer to be physically present:
 - A) The customer’s residence; or
 - B) If the customer’s residence is not known, the customer’s billing/mailing address.
- 3) For a customer engaged in business:
 - A) Where the services are ordered from;
 - B) At the customer’s billing/mailing address if the location from which the services are ordered is not known; or
 - C) At the customer’s commercial domicile if none of the above are known.

Refer to Appendix A for proposed amendments to RCW 35.102.130 that incorporate the recommended changes to the definition of “customer location.”

Throw-out Provision

For purposes of calculating the service-income factor, the task force recommends the inclusion of a “throw-out” provision. A “throw-out” provision requires that gross income of a business engaging in an apportionable activity be excluded from the denominator of the service-income factor if, in respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable to a U.S. city or unincorporated area of a county, or to a foreign country, in which the taxpayer is not taxable.

“Not taxable” means that the taxpayer is not subject to a business activities tax by the U.S. city or county, or by the foreign country, where the customer is located, except that a taxpayer is taxable in a U.S. city or county or in a foreign country in which it would be deemed to have a substantial nexus under the standards in RCW 35.102.050, regardless of whether that U.S. city or county or that foreign country imposes such a tax.

Refer to Appendix A for proposed amendments to RCW 35.102.130 that incorporate a revised throw-out provision.

Alternative Apportionment

In addition, the task force recommends adoption of alternative apportionment requirements that are consistent with Article IV., Section 18 of the Multistate Tax Compact. These requirements generally specify that a taxpayer petitioning for, or a tax administrator requiring, the use of an alternative method to effectuate an equitable allocation and apportionment of the taxpayer's income must prove by a preponderance of the evidence:

- 1) That the allocation and apportionment provisions in RCW 35.102.130 do not fairly represent the extent of the taxpayer's business activity in the city; and
- 2) That the alternative to such provisions is reasonable.

Business Recordkeeping

EHB 2005 requires that the recommended changes to RCW 35.102.130 rely on information typically available in commercial transaction receipts and captured by common business recordkeeping systems.

The task force's recommendation to amend the service-income factor by redefining "customer location" achieves this requirement. The types of business records that would be necessary to document the customer location at which a service was performed or from which a service was ordered by a customer, such as purchase and sale agreements, contracts, and engagement letters, are common business records that are readily available in the routine course of business. A customer's billing and mailing address is also generally readily determinable using these same business records.

Payroll Factor

The task force makes no recommendation regarding the payroll factor. The task force recognizes that modification of the payroll factor is a policy issue that is the province of the Legislature.

APPENDIX A

Proposed Amendments to RCW 35.102.130

RCW 35.102.130

Allocation and apportionment of income.

A city that imposes a business and occupation tax must provide for the allocation and apportionment of a person's gross income, other than persons subject to the provisions of chapter 82.14A RCW, as follows:

(1) Gross income derived from all activities other than those taxed as service or royalties must be allocated to the location where the activity takes place.

(a) In the case of sales of tangible personal property, the activity takes place where delivery to the buyer occurs.

(b)(i) In the case of sales of digital products, the activity takes place where delivery to the buyer occurs. The delivery of digital products will be deemed to occur at:

(A) The seller's place of business if the purchaser receives the digital product at the seller's place of business;

(B) If not received at the seller's place of business, the location where the purchaser or the purchaser's donee, designated as such by the purchaser, receives the digital product, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(C) If the location where the purchaser or the purchaser's donee receives the digital product is not known, the purchaser's address maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(D) If no address for the purchaser is maintained in the ordinary course of the seller's business, the purchaser's address obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

(E) If no address for the purchaser is obtained during the consummation of the sale, the address where the digital good or digital code is first made available for transmission by the seller or the address from which the digital automated service or service described in RCW 82.04.050 (2)(g) or (6)(c) was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(ii) If none of the methods in (b)(i) of this subsection (1) for determining where the delivery of digital products occurs are available after a good faith effort by the taxpayer to apply the methods provided in (b)(i)(A) through (E) of this subsection (1), then the city and the taxpayer may mutually agree to employ any other method to effectuate an equitable allocation of income from the sale of digital products. The taxpayer will be responsible for petitioning the city to use an alternative method under this subsection (1)(b)(ii). The city may employ an alternative method for allocating the income from the sale of digital products if the methods provided in (b)(i)(A) through (E) of this subsection (1) are not available and the taxpayer and the city are unable to mutually agree on an alternative method to effectuate an equitable allocation of income from the sale of digital products.

(iii) For purposes of this subsection (1)(b), the following definitions apply:

(A) "Digital automated services," "digital codes," and "digital goods" have the same meaning as in RCW 82.04.192;

(B) "Digital products" means digital goods, digital codes, digital automated services, and the services described in RCW 82.04.050 (2)(g) and (6)(c); and

(C) "Receive" has the same meaning as in RCW 82.32.730.

(c) If a business activity allocated under this subsection (1) takes place in more than one city and all cities impose a gross receipts tax, a credit must be allowed as provided in RCW 35.102.060; if not all of the cities impose a gross receipts tax, the affected cities must allow another credit or allocation system as they and the taxpayer agree.

(2) Gross income derived as royalties from the granting of intangible rights must be allocated to the commercial domicile of the taxpayer.

(3) Gross income derived from activities taxed as services shall be apportioned to a city by multiplying apportionable income by a fraction, the numerator of which is the payroll factor plus the service-income factor and the denominator of which is two.

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in the city during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the city if:

(i) The individual is primarily assigned within the city;

(ii) The individual is not primarily assigned to any place of business for the tax period and the employee performs fifty percent or more of his or her service for the tax period in the city; or

(iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform fifty percent or more of his or her service in any city, and the employee resides in the city.

(b) The service income factor is a fraction, the numerator of which is the total service income of the taxpayer in the city during the tax period, and the denominator of which is the total service income of the taxpayer everywhere during the tax period. Service income is in the city if:

~~(i) The customer location is in the city; or~~

~~(ii) The income producing activity is performed in more than one location and a greater proportion of the service income producing activity is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or~~

~~(iii) The service income producing activity is performed within the city, and the taxpayer is not taxable in the customer location.~~

~~(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the service income factor if, in respect to such activity, at least some of the activity is performed in the city, and the gross income is attributable under (b) of this subsection (3) to a city or unincorporated area of a county within the United States or to a foreign country in which the taxpayer is not taxable. For purposes of this subsection (3)(c), "not taxable" means that the taxpayer is not subject to a business activities tax by that city or county within the United States or by that foreign country, except that a taxpayer is taxable in a city or county within the United States or in a foreign country in which it would be deemed to have a substantial nexus with the city or county within the United States or with the foreign country under the standards in RCW 35.102.050 regardless of whether that city or county within the United States or that foreign country imposes such a tax.~~

~~(de) If the allocation and apportionment provisions of this subsection (3) do not fairly represent the extent of the taxpayer's business activity in the city or cities in which the taxpayer does business, the taxpayer may petition for or the tax administrators may jointly require, in respect to all or any part of the taxpayer's business activity, that one of the following methods be used jointly by the cities to allocate or apportion gross income, if reasonable:~~

~~(i) Separate accounting;~~

- (ii) ~~The exclusion of any one or more of the factors~~ The use of a single factor;
- (iii) The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- (iv) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.
- (e) The party petitioning for, or the tax administrator requiring, the use of any method to effectuate an equitable allocation and apportionment of the taxpayer's income pursuant to subsection (d) of this subsection (3) must prove by a preponderance of the evidence:
- (i) That the allocation and apportionment provisions of this subsection (3) do not fairly represent the extent of the taxpayer's business activity in the city; and
- (ii) That the alternative to such provisions is reasonable.
- The same burden of proof shall apply whether the taxpayer is petitioning for, or the tax administrator is requiring, the use of an alternative, reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income.
- (f) If the tax administrator requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the tax administrator cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this subsection (3).
- (g) A taxpayer that has received written permission from the tax administrator to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the tax administrator reasonably relied in approving a reasonable alternative method.
- (4) The definitions in this subsection apply throughout this section.
- (a) "Apportionable income" means the gross income of the business taxable under the service classifications of a city's gross receipts tax, including income received from activities outside the city if the income would be taxable under the service classification if received from activities within the city, less any exemptions or deductions available.
- (b) "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a city or county within the United States or within a foreign country. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.
- (c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal internal revenue code.
- (d) "Customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business.
- (ee) "Individual" means any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee of that taxpayer.
- (fe) "Customer location" means the following: ~~city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place.~~

(i) For a customer not engaged in business, if the service requires the customer to be physically present, where the service is performed.

(ii) For a customer not engaged in business, if the service does not require the customer to be physically present:

(A) The customer's residence; or

(B) If the customer's residence is not known, the customer's billing/ mailing address.

(iii) For a customer engaged in business:

(A) Where the services are ordered from;

(B) At the customer's billing/ mailing address if the location from which the services are ordered is not known; or

(C) At the customer's commercial domicile if none of the above are known.

(ge) "Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.

(hf) "Service-taxable income" or "service income" means gross income of the business subject to tax under either the service or royalty classification.

(ig) "Tax period" means the calendar year during which tax liability is accrued. If taxes are reported by a taxpayer on a basis more frequent than once per year, taxpayers shall calculate the factors for the previous calendar year for reporting in the current calendar year and correct the reporting for the previous year when the factors are calculated for that year, but not later than the end of the first quarter of the following year.

~~(h) "Taxable in the customer location" means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to gross receipts tax regardless of whether, in fact, the government does so.~~

APPENDIX B

Charter

Local B&O Tax Apportionment Task Force Charter

Background	The two-factor formula provided in RCW 35.102.130 is used to apportion gross income derived from service-taxable activities to cities for local business and occupation (B&O) tax purposes. EHB 2005, enacted during the 2017 legislative session, directs cities, towns, and identified business organizations to partner in recommending changes to simplify the two-factor formula provided in RCW 35.102.130.
Purpose	To prepare a report to the Legislature by October 31, 2018 that recommends changes to RCW 35.102.130 and related sections, as needed, to develop a method for assigning gross receipts to a local jurisdiction using a market-based model.
Scope	<p>Recommend changes to simplify the two-factor apportionment formula provided in RCW 35.102.130.</p> <p>Focus on methods that rely on information typically available in commercial transaction receipts and captured by common business recordkeeping systems.</p> <p>The Task Force may seek input or collaborate with other parties, as it deems necessary.</p>
Goal	Develop a report with recommendations that is approved and adopted by a majority of the members of the Task Force. A minority report may be generated, if deemed necessary.
Topics of discussion including but not limited to:	<p>Ease of administration and compliance</p> <p>Economic impact</p> <p>Hierarchy of sourcing rules</p> <p>Alternative apportionment</p> <p>Possible industry specific rules</p>

Local B&O Tax Apportionment Task Force Charter

Task Force Members

Name	Representing	Role
Kevin Dixon, Program Manager	Department of Revenue	Task Force Chair
Rachel A. Le Mieux, Peterson Sullivan	Association of Washington Business	Business representative
Scott Edwards, Lane Powell	Association of Washington Business	Business representative
Dan Robillard, Expedia	Association of Washington Business	Business representative
Chris Bothwell, Finance Director, Lake Forest Park	Association of Washington Cities	City representative
Joseph Cunha, City Tax Administrator, City of Seattle	Association of Washington Cities	City representative
Danielle Larson, Tax & License Manager, City of Tacoma	Association of Washington Cities	City representative

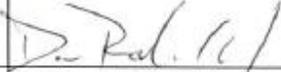
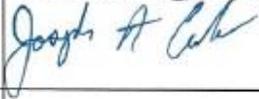
Task Force Staff

The following Department of Revenue staff will support the task force.

Name	Representing	Role
JoAnne Gordon, Legislative Coordinator	Department of Revenue	Task Force staff
Barbara Provoe, Management Analyst	Department of Revenue	Task Force staff

Local B&O Tax Apportionment Task Force Charter

Charter Approval

Name	Representing	Signature
Kevin Dixon, Program Manager	Department of Revenue	
Rachel A. Le Mieux, Peterson Sullivan	Association of Washington Business	
Scott Edwards, Lane Powell	Association of Washington Business	
Dan Robillard, Expedia	Association of Washington Business	
Chris Bothwell, Finance Director, Lake Forest Park	Association of Washington Cities	
Joseph Cunha, City Tax Administrator, City of Seattle	Association of Washington Cities	
Danielle Larson, Tax & License Manager, City of Tacoma	Association of Washington Cities	

APPENDIX C

Cities That Impose a Business and Occupation (B&O) Tax in 2018

Aberdeen	Ilwaco	Port Townsend
Algona	Issaquah	Rainier
Bainbridge Island	Kelso	Raymond
Bellevue	Kenmore	Renton
Bellingham	Kent	Roy
Bremerton	Lacey	Ruston
Burien	Lake Forest Park	Seattle
Cosmopolis	Long Beach	Shelton
Darrington	Longview	Snoqualmie
Des Moines	Lyman	South Bend
DuPont	Mercer Island	Tacoma
Everett	North Bend	Tenino
Everson	Ocean Shores	Tumwater
Granite Falls	Olympia	Westport
Hoquiam	Pacific	Yelm

*Shoreline will have a B&O tax effective January 1, 2019.

APPENDIX D

Engrossed House Bill 2005 (Chapter 209, Laws of 2017); Section 11

11 NEW SECTION. **Sec. 11.** (1) The legislature directs cities,
12 towns, and identified business organizations to partner in
13 recommending changes to simplify the two factor apportionment formula
14 provided in RCW 35.102.130.

15 (2)(a) The local business and occupation tax apportionment task
16 force is established. The task force must consist of the following
17 seven representatives:

18 (i) Three voting representatives selected by the association of
19 Washington cities that are tax managers representing municipalities
20 that impose a local business and occupation tax, including at least
21 one jurisdiction that has performed an audit where apportionment
22 errors were discovered.

23 (ii) Three voting representatives selected by the association of
24 Washington business, including at least one tax practitioner or legal
25 counsel with experience representing business clients during
26 municipal audits that involved apportionment errors or disputes.

27 (iii) One nonvoting representative from the department.

28 (b) The task force may seek input or collaborate with other
29 parties, as it deems necessary. The department must serve as the task
30 force chair and must staff the task force.

31 (c) Beginning in the first month following the effective date of
32 this section, the task force must meet no less frequently than once
33 per month until it reports to the legislature as provided under
34 subsection (3) of this section.

35 (3) By October 31, 2018, the task force established in subsection
36 (2) of this section must prepare a report to the legislature to
37 recommend changes to RCW 35.102.130 and related sections, as needed,
38 to develop a method for assigning gross receipts to a local
39 jurisdiction using a market-based model. The task force must focus on
1 methods that rely on information typically available in commercial
2 transaction receipts and captured by common business recordkeeping
3 systems.

4 (4) The task force terminates January 1, 2019, unless legislation
5 is enacted to extend such termination date.