

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 1542 HB	<b>Title:</b> Tax on employee tips	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

FUND	FY 2008	FY 2009	2007-09	2009-11	2011-13
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	(27,110,000)	(33,858,000)	(60,968,000)	(71,913,000)	(77,896,000)
<b>Total \$</b>	(27,110,000)	(33,858,000)	(60,968,000)	(71,913,000)	(77,896,000)

### Estimated Expenditures from:

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	0.4	0.1	0.3	0.1	0.1
<b>Fund</b>					
GF-STATE-State 001-1	33,300	5,300	38,600	10,600	10,600
<b>Total \$</b>	33,300	5,300	38,600	10,600	10,600

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill would provide a business and occupation tax credit for state and federal payroll taxes paid by restaurants (as defined in the bill) on employee tips.

"Restaurant" is defined as "any business establishment where, in consideration of payment, either food or beverages, or both, without lodgings, is regularly furnished to the public, and some or all of the establishment's employees regularly and customarily receive tips from patrons of the establishment, but not including drug stores and soda fountains."

The credit amount is the total amount of contributions or taxes paid to the state and federal government on account of tip income that is included in wages for the purposes of RCW 50.04.320 (3). This includes all of the following:

1. The amount of taxes paid by the employer to any state of Washington taxing authority on account of tip income that is included in wages for the purposes of RCW 50.04.320 (3).
2. Taxes paid by the employer to the United States Treasury on account of the employer's federal insurance contributions act (FICA) tax obligations.
3. Taxes paid by the employer to the United States Treasury on account of the employer's federal unemployment tax act (FUTA) tax obligations.

The credits provided may be claimed against taxes due for the calendar year in which the employer pays the items included in the credit. The credit amount cannot exceed the tax due and refunds may not be given in place of credits. Credits may not be carried over to subsequent calendar years or carried backward to previous calendar years.

Fifty percent of the credit amount must be utilized for health care benefits for the employees, additional wages for non-tip earning employees, or other increased employee benefits.

The bill takes effect 90 days after final adjournment of the session in which it is enacted.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS/DATA SOURCES

This bill provides a business and occupation tax credit for state and federal payroll taxes paid by restaurants (as defined in the bill) on employee tips. To calculate the taxes on employee tips, Employment Security Department data and Internal Revenue Service data were examined. An Office of Trade & Economic Development Travel Industry Employment report stating tip income is 13.4 percent of the wages of workers in food and beverage establishments was also used.

On the federal forms for reporting an employer's federal insurance contributions act (FICA) tax obligations, FICA taxes on tips are calculated by multiplying by 0.124, and for an employer's federal unemployment tax act (FUTA) tax obligations the taxes paid on tips would be the same as for wages and so multiplied by 0.008.

The growth rate of these taxes paid was assumed to be the same as the growth rate for personal income, which was calculated using the U.S. Bureau of Economic Analysis' Per Capita Personal Income report for Washington.

This bill is assumed to be effective 90 days after final adjournment of the session in which it is enacted.

REVENUE ESTIMATES

The amount of the credit being taken by a taxpayer was calculated to be the lesser of

1. the total of the FICA taxes on tips, FUTA taxes on tips, and Employment Security taxes on tips; or
2. the business and occupation taxes owed.

The estimated revenue loss for Fiscal Year 2008 is \$27.1 million and \$33.9 million for Fiscal Year 2009.

#### TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2008 - \$ (27,110)  
FY 2009 - \$ (33,858)  
FY 2010 - \$ (35,238)  
FY 2011 - \$ (36,675)  
FY 2012 - \$ (38,170)  
FY 2013 - \$ (39,726)

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

To implement this legislation, the Department of Revenue (Department) will incur costs of approximately \$33,300 during Fiscal Year 2008. These are costs for programming to set up, test, and verify the system for this credit, spot check the validity of credit claims, process additional out of balance returns, and the amendment of one rule.

Time and effort for programming, checking, and processing of credit claims and out of balance returns would equate to approximately 0.4 FTE.

The Department will incur ongoing costs of approximately \$5,300 during Fiscal Year 2009 and \$10,600 during the 2009-2011 and the 2011-2013 Biennia. Ongoing costs are for 0.1 FTE each fiscal year to check and process credit claims and out of balance returns.

Due to the July 1, 2007, effective date of this legislation, the Department will incur costs in Fiscal Year 2007 of approximately \$12,500 to create and mail special notices. These costs are not reflected in this fiscal note.

Without an appropriation to cover the expenditure impact, the Department may not be fully able to implement the legislation.

## Part III: Expenditure Detail

### III. A - Expenditures by Object Or Purpose

	FY 2008	FY 2009	2007-09	2009-11	2011-13
FTE Staff Years	0.4	0.1	0.3	0.1	0.1
A-	19,500	3,700	23,200	7,400	7,400
B-	4,900	900	5,800	1,800	1,800
E-	6,500	700	7,200	1,400	1,400
J-	2,400		2,400		
<b>Total \$</b>	<b>\$33,300</b>	<b>\$5,300</b>	<b>\$38,600</b>	<b>\$10,600</b>	<b>\$10,600</b>

**III. B - Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

<b>Job Classification</b>	<b>Salary</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>2007-09</b>	<b>2009-11</b>	<b>2011-13</b>
EXCISE TAX EX 2	36.624	0.1	0.1	0.1	0.1	0.1
HEARINGS SCHEDULER	31.056	0.0		0.0		
IT SPEC 4	54.372	0.2		0.1		
RULES MANAGER	78.194	0.0		0.0		
RULES POLICY SPECIALIST	64.587	0.0		0.0		
TAX POLICY SPECIALIST 2	54.372	0.0		0.0		
TAX POLICY SPECIALIST 3	61.500	0.1		0.0		
<b>Total FTE's</b>		0.4	0.1	0.3	0.1	0.1

## Part IV: Capital Budget Impact

NONE.

## Part V: New Rule Making Required

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Should this legislation become law, the Department will use the standard process to amend WAC 458-20-124, Restaurants, cocktail bars, taverns and similar businesses. Persons affected by this rule-making would include those engaged in the restaurant business as defined in the legislation.