

Multiple Agency Fiscal Note Summary

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|-------------------------------|------------------------------------|
| Bill Number: 1354 E HB | Title: Scan-down allowances |
|-------------------------------|------------------------------------|

Estimated Cash Receipts

| Agency Name | 2019-21 | | 2021-23 | | 2023-25 | |
|-----------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| | GF- State | Total | GF- State | Total | GF- State | Total |
| Department of Revenue | (4,500,000) | (4,500,000) | (5,100,000) | (5,100,000) | (5,700,000) | (5,700,000) |
| Total \$ | (4,500,000) | (4,500,000) | (5,100,000) | (5,100,000) | (5,700,000) | (5,700,000) |

| | | | | | | |
|---------------------|------------------|--|--|--|--|--|
| Local Gov. Courts | | | | | | |
| Loc School dist-SPI | | | | | | |
| Local Gov. Other | No fiscal impact | | | | | |
| Local Gov. Total | | | | | | |

Estimated Operating Expenditures

| Agency Name | 2019-21 | | | 2021-23 | | | 2023-25 | | |
|-----------------------|------------|---------------|---------------|------------|---------------|---------------|------------|---------------|---------------|
| | FTEs | GF-State | Total | FTEs | GF-State | Total | FTEs | GF-State | Total |
| Department of Revenue | .4 | 76,200 | 76,200 | .1 | 16,800 | 16,800 | .1 | 16,800 | 16,800 |
| Total \$ | 0.4 | 76,200 | 76,200 | 0.1 | 16,800 | 16,800 | 0.1 | 16,800 | 16,800 |

| | | | | | | | | | |
|---------------------|------------------|--|--|--|--|--|--|--|--|
| Local Gov. Courts | | | | | | | | | |
| Loc School dist-SPI | | | | | | | | | |
| Local Gov. Other | No fiscal impact | | | | | | | | |
| Local Gov. Total | | | | | | | | | |

Estimated Capital Budget Expenditures

| Agency Name | 2019-21 | | | 2021-23 | | | 2023-25 | | |
|-----------------------|------------|----------|----------|------------|----------|----------|------------|----------|----------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Department of Revenue | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

Estimated Capital Budget Breakout

NONE

| | | |
|-------------------------------------|---------------------------------|-------------------------------------------|
| Prepared by: Kathy Cody, OFM | Phone: (360) 902-9822 | Date Published: Final 4/ 3/2019 |
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Department of Revenue Fiscal Note

| | | |
|-------------------------------|------------------------------------|------------------------------------------|
| Bill Number: 1354 E HB | Title: Scan-down allowances | Agency: 140-Department of Revenue |
|-------------------------------|------------------------------------|------------------------------------------|

Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

| Account | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|-----------------------------------------------------|-------------|-------------|-------------|-------------|-------------|
| GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax | (2,000,000) | (2,500,000) | (4,500,000) | (5,100,000) | (5,700,000) |
| Total \$ | (2,000,000) | (2,500,000) | (4,500,000) | (5,100,000) | (5,700,000) |

Estimated Expenditures from:

| | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|----------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | 0.8 | 0.1 | 0.4 | 0.1 | 0.1 |
| Account | | | | | |
| GF-STATE-State 001-1 | 67,800 | 8,400 | 76,200 | 16,800 | 16,800 |
| Total \$ | 67,800 | 8,400 | 76,200 | 16,800 | 16,800 |

Estimated Capital Budget Impact:

NONE

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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| Legislative Contact: | Phone: | Date: 03/29/2019 |
| Agency Preparation: Erin Valz | Phone: 360-534-1522 | Date: 04/02/2019 |
| Agency Approval: Kim Davis | Phone: 360-534-1508 | Date: 04/02/2019 |
| OFM Review: Kathy Cody | Phone: (360) 902-9822 | Date: 04/03/2019 |

Request # 1354-2-1

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.

Note: This fiscal note reflects language in EHB 1354, 2019 Legislative Session.

This bill creates a service business and occupation (B&O) tax deduction on revenue generated from scan-down allowances.

"Scan-down allowance" means a payment or credit offered to a seller by a manufacturer or wholesaler of products, where:

- The amount of the payment or credit is based on the quantity of the product to be sold at retail by the seller within a specified period of time;
- The seller knew the terms of the offer before making the sales that generated the payment or credit from the manufacturer or wholesaler; and
- The seller is not required to provide any services to the manufacturer or wholesaler or engage in any business activities directly or indirectly benefiting the manufacturer or wholesaler, in order to receive the payment or credit from the manufacturer or wholesaler.

"Product" is defined as:

- Food and food ingredients that are defined in RCW 82.08.0293, whether or not exempt from sales tax under RCW 82.08.0293; and
- Pet food and specialty pet food as defined in RCW 15.53.901.

This bill specifies that a requirement that the seller sell at a certain retail price or a specific price reduction does not constitute either:

- A service provided by the seller to the manufacturer or wholesaler; or
- A business activity directly or indirectly benefiting the manufacturer or wholesaler.

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

- This fiscal note makes the same assumptions as the previous version (HB 1354-1) which assumed the bill impacts the service and other classification of the B&O tax. As a result, the fiscal note for HB 1354 and EHB 1354 are identical.
- Currently, the Department of Revenue (Department) allows a B&O tax deduction for scan-down allowances as a bona fide discount. It is assumed there is little, if any, historical tax collections on scan-down allowances. Excise Tax Advisory 3173 advises taxpayers to generally treat scan-down allowances as exempt from B&O tax. Recently, the Department discovered that its interpretation is incorrect, because scan-down allowances are not bona fide discounts, and, as such, should be subject to B&O tax under the catchall service and other activities classification.
- If this bill does not pass during the current legislative session, the Department will begin enforcing the collection of service and other activities B&O tax on scan-down allowances.

DATA SOURCES

- U.S. Census data.
- Washington State Economic and Revenue Forecast Council November 2018 forecast.
- Department excise tax return data.
- "Slotting Allowances in the Retail Grocery Industry: Selected Case Studies in Five Product Categories." November 2013.

REVENUE ESTIMATES

This bill decreases state revenues by an estimated \$2 million in the 10 months of impacted collections in Fiscal Year 2020, and by \$2.5 million in Fiscal Year 2021, the first full year of impacted collections.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2020 - (\$ 2,000)
FY 2021 - (\$ 2,500)
FY 2022 - (\$ 2,500)
FY 2023 - (\$ 2,600)
FY 2024 - (\$ 2,800)
FY 2025 - (\$ 2,900)

Local Government, if applicable (cash basis, \$000): none.

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.

ASSUMPTIONS:

This bill affects 11,030 taxpayers.

FIRST YEAR COSTS:

The Department will incur total costs of \$67,800 in Fiscal Year 2020. These costs include:

Labor Costs – Time and effort equates to 0.76 FTEs.

- Create a special notice and update web content.
- Respond to additional telephone questions, email and written correspondence.
- Resolve additional error and out of balance and amended returns.
- Prepare refunds and assessments.
- Adopt new administrative rules.

Object Costs - \$1,900.

- Printing and postage.

SECOND YEAR COSTS:

The Department will incur total costs of \$8,400 in Fiscal Year 2021. These costs include:

Labor Costs – Time and effort equates to 0.1 FTEs.

- Respond to additional telephone questions, email and written correspondence.
- Resolve additional error and out of balance and amended returns.
- Prepare refunds and assessments.

ONGOING COSTS:

Ongoing costs for the 2021-23 Biennium equal \$16,800 and include similar activities described in the second-year costs.

Time and effort equates to 0.1 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

| | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|----------------------------|-----------------|----------------|-----------------|-----------------|-----------------|
| FTE Staff Years | 0.8 | 0.1 | 0.4 | 0.1 | 0.1 |
| A-Salaries and Wages | 40,400 | 5,600 | 46,000 | 11,200 | 11,200 |
| B-Employee Benefits | 12,100 | 1,700 | 13,800 | 3,400 | 3,400 |
| E-Goods and Other Services | 10,400 | 900 | 11,300 | 1,800 | 1,800 |
| J-Capital Outlays | 4,900 | 200 | 5,100 | 400 | 400 |
| Total \$ | \$67,800 | \$8,400 | \$76,200 | \$16,800 | \$16,800 |

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

| Job Classification | Salary | FY 2020 | FY 2021 | 2019-21 | 2021-23 | 2023-25 |
|--------------------|---------|------------|------------|------------|------------|------------|
| EMS BAND 4 | 115,593 | 0.0 | | 0.0 | | |
| EMS BAND 5 | 135,039 | 0.0 | | 0.0 | | |
| EXCISE TAX EX 3 | 56,256 | 0.1 | 0.1 | 0.1 | 0.1 | 0.1 |
| MGMT ANALYST1 | 45,096 | 0.0 | | 0.0 | | |
| TAX INFO SPEC 1 | 40,908 | 0.3 | | 0.2 | | |
| TAX INFO SPEC 4 | 60,636 | 0.2 | | 0.1 | | |
| TAX POLICY SP 2 | 68,580 | 0.0 | | 0.0 | | |
| TAX POLICY SP 3 | 77,616 | 0.1 | | 0.0 | | |
| TAX POLICY SP 4 | 83,556 | 0.0 | | 0.0 | | |
| WMS BAND 3 | 98,308 | 0.0 | | 0.0 | | |
| Total FTEs | | 0.8 | 0.1 | 0.5 | 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 expedited process to amend WAC 458-20-108, titled: "Selling price-Credit card service fees, foreign currency, discounts, patronage dividends" and adopt a new rule under 458-20 WAC using the standard process. Persons affected by this rule making would include sellers of food products and pet food.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

| | |
|-------------------------------|------------------------------------|
| Bill Number: 1354 E HB | Title: Scan-down allowances |
|-------------------------------|------------------------------------|

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☐ Cities:
- ☐ Counties:
- ☐ Special Districts:
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☒ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☐ Key variables cannot be estimated with certainty at this time:

Part III: Preparation and Approval

| | | |
|------------------------------------------|-----------------------|------------------|
| Fiscal Note Analyst: Renee Martine-Tebow | Phone: 360-725-5045 | Date: 04/01/2019 |
| Leg. Committee Contact: | Phone: | Date: 03/29/2019 |
| Agency Approval: Allan Johnson | Phone: 360-725-5033 | Date: 04/01/2019 |
| OFM Review: Kathy Cody | Phone: (360) 902-9822 | Date: 04/01/2019 |

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

CHANGE FROM PREVIOUS VERSION:

The engrossed version does not have a fiscal impact on local governments.

SUMMARY OF CURRENT BILL VERSION:

This bill would add a new section to chapter 82.04 RCW. A seller would be allowed to deduct from the measure of tax The amount of scan-down allowances. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

This bill would not impact city expenditures.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

This bill would have no revenue impact to cities. According to the Association of Washington Cities, this bill would not impact local business and occupation taxes.

SOURCE:

Association of Washington Cities