

Department of Revenue Fiscal Note

Bill Number: 1095 HB	Title: Emergency assistance/tax	Agency: 140-Department of Revenue
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	2.4	1.7	2.0	1.5	1.1
Account					
GF-STATE-State 001-1	292,000	162,600	454,600	287,800	214,600
Total \$	292,000	162,600	454,600	287,800	214,600

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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Agency Preparation: Valerie Torres	Phone: 360-534-1521	Date: 01/11/2021
Agency Approval: Don Gutmann	Phone: 360-534-1510	Date: 01/11/2021
OFM Review: Ramona Nabors	Phone: (360) 902-0547	Date: 01/13/2021

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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.

CURRENT LAW:

Washington's major business taxes are the business and occupation (B&O) tax and the public utility (PU) tax. Both are imposed on the gross income of the business unless a specific exemption exists for a portion of the income.

Federal, state, and local grants are considered gross income of the business, and currently are not exempt from the B&O tax or the PU tax, unless a specific exemption applies. Grants provided in exchange for retail goods or services may also be subject to retail sales tax.

PROPOSED LAW:

This bill exempts from B&O tax, PU tax, and retail sales tax, qualifying grants or relief from debt made by federal, state, tribal, and local governments, or through a non-governmental third-party authorized to distribute governmental grant funds or provide debt relief.

The federal, state, tribal, or local government qualifying grants must address impacts from a declaration of a nationally declared emergency, or state declared emergency.

This bill also updates the definition of "retail sale" to clarify that purchases of tangible personal property or certain services by the recipient of qualifying grants are subject to sales tax.

This bill applies prospectively and retroactively to February 29, 2020.

This bill contains an emergency clause and takes effect immediately upon the Governor's approval.

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

- Most taxpayers are unaware that they may owe tax on the state and federal grants or loan forgiveness they received for COVID-19 relief. Taxpayers will begin paying tax on these amounts after July 1, 2021, and all payments would be made by June 30, 2022. However, for loan forgiveness, only amounts actually forgiven become exempt. The Department of Revenue (Department) does not have data to determine how many loans will be forgiven. If all loans are forgiven, we estimate the state could lose up to \$209.7 million in Fiscal Year 2022.
- All state and federal COVID-19 related grants are subject to B&O taxes under the service & other tax classification. Taxpayers with more than \$1,000,000 in taxable activity would pay the higher rate on this income of 1.75 percent.
- These estimates do not include future state or federal emergency declarations.
- For qualifying grants where taxes were paid, the taxes cannot be refunded.
- Revenues as estimated assume passage of the proposal by April 25, 2021, allowing a full 60 days to implement.
- This proposal is retroactive, so Fiscal Year 2022 includes 12 months of impacted cash collections.

DATA SOURCES

- U.S. Small Business Administration, COVID-19 payment protection program data
- Department of Commerce website, Washington Works and other COVID grant data

REVENUE ESTIMATES

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Form FN (Rev 1/00) 161,810.00

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The revenue impact of this bill is indeterminate because the amount of loan forgiveness under the federal programs for COVID-19 is unknown.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000): indeterminate

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 approximately 100,000 taxpayers.
- The Department will create five deduction codes.
- This bill only addresses grants made by federal, state, tribal, and local governments.

FIRST YEAR COSTS:

The Department will incur total costs of \$292,000 in Fiscal Year 2022. These costs include:

Labor Costs - Time and effort equates to 2.36 FTEs.

- Amend one rule and create one new rule,
- Test system changes,
- Answer additional telephone, email, and counter inquiries,
- Work with additional complicated return items and tax issues,
- Update paper returns,
- Create a special notice to affected taxpayers and update publications and information on the Department website, and
- Respond to taxpayer requests for administrative review.

Object Costs - \$49,000.

- Contracted programming for system changes, and
- Printing and mailing additional taxpayer correspondence.

SECOND YEAR COSTS:

The Department will incur total costs of \$162,600 in Fiscal Year 2023. These costs include:

Labor Costs - Time and effort equates to 1.7 FTEs.

- Answer additional telephone, email, and counter inquiries,
- Work with additional complicated return items and tax issues, and
- Respond to taxpayer requests for administrative review.

Object Costs - \$7,000.

- Printing and mailing additional taxpayer correspondence.

ONGOING COSTS:

Ongoing costs for the 2023-25 Biennium equal \$287,800 and include similar activities described in the second year costs.

Time and effort equates to 1.5 FTEs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	2.4	1.7	2.0	1.5	1.1
A-Salaries and Wages	145,000	99,200	244,200	174,600	128,000
B-Employee Benefits	52,300	35,800	88,100	63,000	46,200
C-Professional Service Contracts	30,800		30,800		
E-Goods and Other Services	47,500	25,600	73,100	46,700	37,800
J-Capital Outlays	16,400	2,000	18,400	3,500	2,600
Total \$	\$292,000	\$162,600	\$454,600	\$287,800	\$214,600

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 2022	FY 2023	2021-23	2023-25	2025-27
EMS BAND 4	119,061	0.0		0.0		
EMS BAND 5	139,090	0.0		0.0		
EXCISE TAX EX 2	54,108	1.0	1.0	1.0	0.9	0.7
EXCISE TAX EX 3	59,688	0.5	0.5	0.5	0.5	0.3
MGMT ANALYST4	70,956	0.4	0.1	0.3	0.1	
RECORDS MGMT SUPV	67,560	0.1		0.1		
TAX INFO SPEC 4	64,332	0.1		0.1		
TAX POLICY SP 2	72,756	0.0		0.0		
TAX POLICY SP 3	82,344	0.2	0.1	0.1	0.1	0.1
TAX POLICY SP 4	88,644	0.0		0.0		
WMS BAND 3	101,257	0.0		0.0		
Total FTEs		2.4	1.7	2.1	1.5	1.1

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

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 458-20-179, titled:

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"Public Utility Tax" and create one new rule using the standard process. Persons affected by this rule making would include businesses that receive a qualifying grant, including those related to the COVID-19 pandemic.