

Multiple Agency Fiscal Note Summary

Bill Number: 1757 HB	Title: Farmers/sales tax remittance
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Estimated Cash Receipts

NONE

Agency Name	2023-25		2025-27		2027-29	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts						
Loc School dist-SPI						
Local Gov. Other	No fiscal impact					
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2023-25				2025-27				2027-29			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total \$	0.0	0	0	0	0.0	0	0	0	0.0	0	0	0

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2023-25			2025-27			2027-29		
	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

Agency Name	2023-25			2025-27			2027-29		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts									
Loc School dist-SPI									
Local Gov. Other	No fiscal impact								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Cheri Keller, OFM	Phone: (360) 584-2207	Date Published: Final 2/16/2023
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Department of Revenue Fiscal Note

Bill Number: 1757 HB	Title: Farmers/sales tax remittance	Agency: 140-Department of Revenue
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Part I: Estimates



No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

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.

Legislative Contact: Tracey Taylor	Phone: 603-786-7152	Date: 02/07/2023
Agency Preparation: Diana Tibbetts	Phone: 603-534-1520	Date: 02/16/2023
Agency Approval: Valerie Torres	Phone: 603-534-1521	Date: 02/16/2023
OFM Review: Cheri Keller	Phone: (603) 584-2207	Date: 02/16/2023

Request # 1757-1-1

Part II: Narrative Explanation

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

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

CURRENT LAW:

A sales and use tax exemption is available to “eligible farmers” who purchase certain goods and services. In 2007, the Legislature enacted a B&O tax exemption for farmers who provide custom farming services to other farmers. The exemption expired December 31, 2020. In 2022, the Legislature reinstated the B&O tax exemption effective July 1, 2022, which is codified at RCW 82.04.758.

PROPOSAL:

This legislation provides a sales and use tax exemption for any goods and services purchased by an eligible farmer. The exemption is in the form of a refund of tax paid. In effect, an eligible farmer is a farmer who is entitled to the B&O tax exemption for providing custom farming services to other farmers. The proposal requires that a person claiming the sales and use tax exemption must retain records suitable for allowing the Department of Revenue (department) to determine whether the eligible farmer is entitled to the exemption.

The maximum refund per eligible farmer is determined by the amount of B&O tax paid from December 31, 2020, through July 1, 2022, that would have been exempt under the services for farms statute (RCW 82.04.758) if the exemption had been available during that time.

The new tax preference performance provisions do not apply to this bill (see section 3 of the bill).

EFFECTIVE DATE:

This bill takes effect on August 1, 2023.

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS

- Each fiscal year, three to four taxpayers benefitted from the B&O tax exemption for custom farming before it expired.
- The average annual taxpayer savings was \$10,000 for the three fiscal years before the exemption expired.
- Article VIII, sections 5 and 7 of the Washington constitution do not allow a gift of public funds. As interpreted by the courts, the refund of validly collected taxes based on a retroactive repeal of the tax is a gift of public funds. This bill appears to seek to avoid a gift of public funds issue by providing an exemption from sales and use tax in the form of a refund for the amount of B&O tax paid during a specified period of time prior to the bill’s effective date. In substance, this bill authorizes the refund of validly collected B&O tax in the form of a sales and use tax exemption. The department believes that this attempted form over substance workaround would not shield this legislation from being found unconstitutional and, for that reason, we would be unable to implement this bill. [See *Seattle-King County Council of Camp Fire v. Dep’t. of Revenue*, 105 Wn.2d 55 (1985); *City of Yakima v. Huza*, 67 Wn.2d 351, 407 P.2d 815 (1965)].

DATA SOURCES

-Department of Revenue excise tax data

REVENUE ESTIMATES

This legislation results in no revenue impact to taxes administered by the department.

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

ASSUMPTIONS:

No refunds will be granted for taxes previously paid.

The department will not incur any costs as we are unable to implement this legislation.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

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

NONE

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

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1757 HB

Title: Farmers/sales tax remittance

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:

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

None

Part III: Preparation and Approval

Fiscal Note Analyst: Angie Hong	Phone: 360-725-5041	Date: 02/16/2023
Leg. Committee Contact: Tracey Taylor	Phone: 360-786-7152	Date: 02/07/2023
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 02/16/2023
OFM Review: Cheri Keller	Phone: (360) 584-2207	Date: 02/16/2023

Part IV: Analysis

A. SUMMARY OF BILL

Description of the bill with an emphasis on how it impacts local government.

This bill creates a sales tax exemption for an eligible farmer to be administered in the form of a remittance in the amount of B&O tax paid from December 31, 2020, through July 1, 2022. This act takes effect August 1, 2023.

NOTE

The Dept. of Revenue states it is unable to implement this bill due to limitations within the state constitution, and revenue figures were not provided as part of their analysis. Therefore, the Local Government Fiscal Note Program assumes this legislation will have no impact on local governments.

B. SUMMARY OF EXPENDITURE IMPACTS

Expenditure impacts of the legislation on local governments with the expenditure provisions identified by section number and when appropriate, the detail of expenditures. Delineated between city, county and special district impacts.

This legislation will not impact local government expenditures.

C. SUMMARY OF REVENUE IMPACTS

Revenue impacts of the legislation on local governments, with the revenue provisions identified by section number, and when appropriate, the detail of revenue sources. Delineated between city, county and special district impacts.

This legislation will not impact local government revenues.

SOURCES

Dept. of Revenue Fiscal Note