



Ten-Year Analysis

Bill Number 6492 E S SB PL	Title B&O tax/workforce education	Agency 140 Department of Revenue
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

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No Cash Receipts

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Partially Indeterminate Cash Receipts

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Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	Fiscal Year 2028	Fiscal Year 2029	2020-29 TOTAL
B&O Tax	24J	(68,000,000)	38,400,000	115,300,000	119,000,000	117,800,000	98,200,000	101,000,000	104,000,000	107,100,000	110,100,000	842,900,000
Total		(68,000,000)	38,400,000	115,300,000	119,000,000	117,800,000	98,200,000	101,000,000	104,000,000	107,100,000	110,100,000	842,900,000
Biennial Totals		(29,600,000)	234,300,000		216,000,000		205,000,000		217,200,000		842,900,000	

Narrative Explanation (Required for Indeterminate Cash Receipts)

Note: This fiscal note reflects language in ESSB 6492 as passed in the 2020 Legislative Session.

CURRENT LAW:

The service and other activities business and occupation (B&O) tax rate is 1.5 percent.

E2SHB 2158, passed during the 2019 Legislative Session, imposes tiered surcharges based on a percentage of the service and other activities B&O tax payable by a business as follows:

- A 20 percent surcharge on "specified persons" primarily engaged in one or more of the enumerated categories of activities described in the bill.
- A 33.33 percent surcharge on affiliated groups of "select advanced computing businesses" with combined worldwide gross revenue of more than \$25 billion but not more than \$100 billion.
- A 66.66 percent surcharge on affiliated groups of select advanced computing businesses with combined worldwide gross revenue of more than \$100 billion.
- Affiliated groups of select advanced computing businesses must pay a combined minimum surcharge amount ("floor") of \$4 million and a maximum ("cap") of \$7 million annually.
- The advanced computing surcharge does not apply to:
 - Businesses primarily engaged in commercial mobile services; or
 - Businesses primarily engaged in operation and provision of access to transmission facilities and infrastructure



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Narrative Explanation (Required for Indeterminate Cash Receipts)

The tiered surcharges are codified in RCW 82.04.299 and are effective January 1, 2020.

PROPOSAL:

This bill eliminates the 20 percent Workforce Education Investment Surcharge on specified persons under RCW 82.04.299, both prospectively and retroactively to January 1, 2020.

This bill delays the effective date of the surcharge on select advanced computing businesses to April 1, 2020, and simplifies this surcharge as follows:

- Replaces the two-tier surcharge with a single surcharge equal to 1.22 percent of the business's gross income taxable under the service and other activities B&O tax classification.
- Eliminates the \$4 million floor.
- Increases the annual cap to \$9 million.
- Select advanced computing businesses will pay the surcharge quarterly but will continue to report and pay the rest of their excise tax liability as required by RCW 82.32.045.
- The advanced computing surcharge does not apply to businesses primarily engaged in business as a "financial institution" as defined in RCW 82.04.29004.
- If the Department of Revenue (Department) establishes, by clear, cogent, and convincing evidence that a business, and/or members of the business's affiliated group, intended to evade the surcharge, the Department must assess a penalty equal to fifty percent of the amount of the total surcharge payable by all members of that affiliated group for the calendar year during which the person or affiliated group failed to fully comply. The penalty is in lieu of the evasion penalty under RCW 82.32.090(7).

Effective April 1, 2020, this bill increases the service and other activities B&O tax rate under RCW 82.04.290(2) from 1.5 percent to 1.75 percent. The increase in the service and other activities B&O tax rate does not apply to:

- Businesses subject to the advanced computing surcharge;
- Any business whose gross income of the business subject service and other activities B&O tax was below \$1,000,000, including any such income of the business's affiliates; and
- Hospitals.

All new revenue from the additional 0.25 percent service and other activities B&O tax rate will be deposited into the Workforce Education Investment Account. This is equivalent to 14.3 percent of service and other activities B&O tax collections at the 1.75 percent tax rate.

EFFECTIVE DATE:

The elimination of the 20 percent surcharge on specified persons is effective retroactively to January 1, 2020.



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Narrative Explanation (Required for Indeterminate Cash Receipts)

The elimination of the original advanced computing surcharge is effective retroactively to January 1, 2020. The simplified surcharge on select advanced computing businesses is effective April 1, 2020, with the first quarterly payments due July 31, 2020.

The increased service and other activities B&O tax rate is effective April 1, 2020, with the first monthly tax return due May 25, 2020.

ASSUMPTIONS:

This bill will be passed by the Legislature by February 10, 2020.

The surcharges in E2SHB 2158 will be eliminated retroactively to January 1, 2020, resulting in 5 months of impact for Fiscal Year 2020 and 12 months of impact thereafter.

The increased service and other activities B&O tax rate is effective April 1, 2020, resulting in 2 months of impact for Fiscal Year 2020 and 12 months of impact thereafter.

The simplified advanced computing surcharge is effective April 1, 2020, with the first quarterly payment due July 31, 2020, resulting in no revenue impact for Fiscal Year 2020 and 12 months of impact thereafter.

For affiliated groups that are known to the Department, this estimate assumes the affiliated groups may engage in some level of restructuring that may decrease their service and other activities B&O taxable income. This estimate assumes that 90 percent of estimated taxable revenue will be maintained.

Currently, it is estimated that there will be at least 89,100 taxpayers subject to the higher education surcharges provided for in E2SHB 2158.

This bill will impact approximately 14,800 taxpayers.

- Of the estimated 14,800 taxpayers, approximately 10,400 taxpayers will pay a lower rate than they would have under E2SHB 2158 (1.75 percent vs 1.8 percent).
- A small number of taxpayers will be subject to the simplified advanced computing surcharge and will pay a higher rate than under E2SHB 2158.
- The remaining 4,400 are not subject to the surcharges created in E2SHB 2158, but will pay the higher service and other activities B&O tax rate in this bill.

DATA SOURCES:

Department of Revenue excise tax returns for Fiscal Year 2019

Washington State Economic and Revenue Forecast Council November 2019 forecast

REVENUE ESTIMATES



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Narrative Explanation (Required for Indeterminate Cash Receipts)

This bill decreases state revenues by an estimated \$68.0 million in Fiscal Year 2020, and increases state revenues by \$38.4 million in Fiscal Year 2021.

TOTAL REVENUE IMPACT:

State Government (cash basis, \$000):

FY 2020 -	(\$ 68,000)
FY 2021 -	\$ 38,400
FY 2022 -	\$ 115,300
FY 2023 -	\$ 119,000
FY 2024 -	\$ 117,800
FY 2025 -	\$ 98,200

LOCAL GOVERNMENT IMPACT: none

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