

Extend economic nexus for retailing B&O tax purposes

Description

This proposal modifies nexus requirements for retailing business and occupation (B&O) tax purposes by supplementing the current physical presence nexus standard with an economic nexus standard.

Under this proposal, out-of-state businesses making retail sales to Washington purchasers would be subject to retailing B&O tax on such sales if they:

1. Have a sufficient physical presence in this state, or
2. Meet either of the following economic nexus thresholds:
 - More than \$267,000 of their gross receipts are sourced to Washington, or
 - At least 25 percent of their receipts are sourced to Washington.

Note:

- The \$267,000 threshold is periodically adjusted for inflation.
 - This proposal applies only to the general retailing B&O tax classification, which includes retail sales taxable under RCW 82.04.250(1) and 82.04.257.
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Current Law

Washington imposes B&O tax on businesses that have a nexus with this state. Depending on the type of activity a business engages in, a business has nexus for B&O tax purposes if it has a sufficient physical presence in Washington or derives a specified amount of gross income from this state.

For out-of-state businesses that earn income from royalties, most wholesaling activity or most service activities nexus requires the business to have one of the following:

- More than \$267,000 of gross receipts from this state
- More than \$53,000 of property in this state
- More than \$53,000 of payroll in this state
- At least 25 percent of its gross receipts, property or payroll in this state

For out-of-state businesses that engage in any other activities, including making retail sales in this state, nexus requires the business to have something more than a slightest physical presence in this state. A business may establish physical presence nexus by having employees or property in this state for business purposes. A business may also establish physical presence nexus by engaging in activities in this state, either directly or through an agent or other representative, that are significantly associated with the business' ability to establish or maintain a market for its products in this state.

**Revenue
Impact**

This proposal has the following state impacts:

	FY 2018	FY 2019	FY 2020	FY 2021
B&O Retailing	\$ 4,400,000	\$ 7,700,000	\$ 10,900,000	\$ 11,600,000
Fiscal Year Totals	\$ 4,400,000	\$ 7,700,000	\$ 10,900,000	\$ 11,600,000
Biennial Totals		\$ 12,100,000		\$ 22,500,000

- *Estimates assume a July 1, 2017, effective date, representing 11 months of collections for FY 2018.*
 - *Estimates reflect the November 2016 Economic and Revenue Forecast Council revenue forecast.*
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