



SUMMARY OF INITIATIVE 1107

Concerning reversing certain 2010 amendments to state tax laws.

*This summary has been prepared in response to specific questions about the provisions and effects of Initiative 1107 and is provided for legislative purposes only; it is **not** provided as an expression for or against the ballot measure. Please remember that it is inappropriate to use public resources to support or oppose a ballot measure. Please refer to the 2010 Legislative Ethics Manual or contact Senate Counsel for further guidance on when and how comment on ballot measures is appropriate.*

BRIEF SUMMARY

Initiative 1107 (I-1107) would reverse certain 2010 changes to state tax laws, resulting in eliminating the sales tax on candy and gum; eliminating the temporary sales tax on bottled water; and ending temporary excise taxes on sales of certain carbonated beverages. It would also reinstate the prior version of the business and occupation tax preferences for fresh fruit and vegetable processors and perishable meat processors.

BACKGROUND

The Sales and Use Tax. The sales tax is imposed by the state, counties, and cities on the retail sale of most items of tangible personal property and on some services, including construction and repair services. If retail sales tax is not collected when the property or services are acquired by the user, then use taxes are applied to the value of most tangible personal property and some services when used in this state. Use tax rates are the same as retail sales tax rates. The combined state/local rate is between 7 and 9.5 percent, depending on the location.

2ESSB 6143, passed by the Legislature during the 2010 session, imposed sales and use tax on bottled water and candy. These products were previously exempt from sales and use taxes as food for human consumption. Sales and use taxes are imposed on bottled water until July 1, 2013. Sales and use taxes permanently apply to sales of candy and gum.

B&O Taxes. Washington's major business tax is the business and occupation (B&O) tax which is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. There are a number of different tax rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere. In addition to these main rates, there are preferential B&O tax rates for certain activities, as well as exemptions from the tax.

In 2005, the Legislature provided a B&O tax exemption for manufacturing fresh fruits or vegetables (by canning, preserving, freezing, processing, or dehydrating), and selling such products at wholesale by the manufacturer to purchasers who transport the goods out-of-state in the ordinary course of business. The B&O exemption for fruit and vegetable manufacturing expires July 1, 2012, and is replaced by a preferential B&O tax rate of 0.138 percent. In 1998, the Legislature adopted a preferential B&O rate of 0.138 percent for businesses that engage in the activity of slaughtering, breaking, or processing of perishable meat products and the wholesaling of such perishable meat products.

2ESSB 6143 (2010) qualifies the fruit and vegetable manufacturing and perishable meat processing tax preferences by requiring that:

- Fruits or vegetables, or any combination of fruits, vegetables, and certain other substances that, cumulatively, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.
- Slaughtering, breaking, or processing perishable meat products or selling these perishable meat products at wholesale must have an end product that is: a perishable meat product; a nonperishable meat product that is comprised primarily of animal carcass by weight or volume, other than a canned meat product; or a meat by-product.

Temporary Tax Increase on Carbonated Beverages. 2ESSB 6143 imposed a temporary excise tax on the privilege of selling carbonated beverages at wholesale or retail at the rate of 2 cents per 12 ounces. The tax may only be imposed one time in the supply or distribution chain. The first \$10 million each calendar year sold by a bottler is exempt from the tax. The tax expires on June 30, 2013.

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I-1107 would reverse certain amendments or new sections in the tax code made by 2ESSB 6143. Under the initiative, bottled water, candy, and gum would again be exempt from sales and use tax. The qualifying activities for the B&O tax preferences for fresh fruit and vegetable processing and slaughtering, breaking and processing perishable meat products would revert to the prior qualifying criteria. Further, the temporary tax on sales of carbonated beverages would be repealed.

Referendum Bill No. 52 (Ref. 52). EHB 2561, passed by the Legislature during the 2010 session, also impacted sales tax on bottled water.

If both I-1107 and Ref. 52 are approved by voters, there will be a potential conflict in the sales tax treatment of bottled water after July 1, 2013.

The sections of EHB 2561 which have been referred to voters as Ref. 52 pertain to issuing government bonds to finance construction and repair projects to promote energy efficiency in public schools and higher education buildings. There are additional portions of EHB 2561, which relate to removing the July 1, 2013, expiration date of sales and use tax on bottled water (sections 305 and 306), which have not been referred to the voters; rather, those sections would

take effect upon approval of Ref. 52. Thus, the July 1, 2013, expiration date of the sales and use taxes on bottled water provided in 2ESSB 6143 would be removed if the portion of EHB 2561 referred to voters was approved.

Fiscal Impact. As required under RCW 29A.72.025, OFM is estimating the impacts which I-1107 would have if approved by voters. OFM will release this estimate on August 10, 2010.

For information on assumptions, see the OFM statement of fiscal impacts (given in total dollars only) at the following website: <http://www.ofm.wa.gov/initiatives/default.asp>.

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This summary should not be considered legislative history for purposes of interpreting Initiative 1107.