

# SENATE BILL REPORT

## SB 5493

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As Reported By Senate Committee On:  
Ways & Means, March 5, 2007

**Title:** An act relating to the excise taxation of forest products businesses.

**Brief Description:** Modifying provisions relating to the excise taxation of forest products businesses.

**Sponsors:** Senators Hargrove, Zarelli, Hatfield, Morton, Sheldon, Rasmussen, Kilmer, McAuliffe, Poulsen, Murray, Clements, Rockefeller, Swecker, Regala, Jacobsen and Shin.

**Brief History:**

**Committee Activity:** Ways & Means: 1/31/07, 3/05/07 [DPS, w/oRec].

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Substitute Senate Bill No. 5493 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Zarelli, Ranking Minority Member; Brandland, Carrell, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Fairley.

**Staff:** Dianne Criswell (786-7433)

**Background:** The business & occupation (B&O) tax is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state. In general, there are no deductions for the costs of doing business.

Several B&O categories apply to timber harvesting activities, including extracting, extracting-for-hire, manufacturing, and wholesaling. All of these activities are generally taxed at 0.484 percent. If taxpayers perform more than one taxable activity for the same product, they may take a multiple activities tax credit to avoid paying the B&O tax twice on the same amount. Small timber harvesters with gross receipts less than \$100,000 per year are exempt from B&O tax.

Real estate excise tax (REET) is a tax on the sale of real property that is paid by the seller. The state and local governments may impose REET on sales of real property. The highest

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combined state and local rate is 1.78 percent. WAC 458-61A-113 defines REET on sales of standing timber, which is currently in rule making at the Department of Revenue.

In 2006, the Legislature reduced the B&O tax rate for extracting or extracting-for-hire timber, or manufacturing or processing for hire logs, wood chips, sawdust, wood waste, pulp, recycled paper products, paper and paper products, dimensional lumber, and engineered wood products, plywood, wood doors, and wood windows. The reduced B&O rate also applies to wholesales of these products by the extractors and manufacturers. The reduced B&O tax rate is phased in: 0.4235 percent applies from July 1, 2006, to July 1, 2007, and 0.2904 percent applies from July 1, 2007, to July 1, 2024. The preferential tax rate expires July 1, 2024.

Taxpayers paying the reduced tax rate are required to file an annual accountability survey and the survey and tax returns must be filed electronically. A taxpayer who fails to complete the required survey forfeits the benefits of the preferential rates and must pay interest, but not penalties, on the additional taxes due. The survey information must be compiled and provided to the Legislature annually. The fiscal committees of the Legislature are required to study the effectiveness of the preferential tax rate and to report to the Legislature by November of 2011 and 2023.

Starting July 1, 2007, a 0.052 percent surcharge is imposed on taxpayers using the reduced tax rate. The proceeds of the surcharge are placed in a dedicated account and are used for implementation of 1999 Forest and Fish Report to the Forest Practices board and the Governor's Salmon Recovery Office. The report made recommendations to ensure compliance with the Endangered Species Act, restore and maintain minimum riparian habitat to support a harvestable supply of fish, meet Clean Water Act standards, and keep the timber industry economically viable. The surcharge is suspended when the surcharge collections reach \$8 million in the biennium, or the federal budget contains at least \$2 million in appropriations to support tribal participation in forest and fish related activities. If the federal appropriation is less than \$2 million then the surcharge rate is reduced.

**Summary of Bill:** Bill as referred to committee not considered.

**Summary of Proposed Substitute As Heard In Committee (Ways & Means):** Sellers that grow timber and are not extractors may also pay under the reduced B&O rate, if they sell the timber apart from the land to a buyer who must sever the timber within 30 months of the contract and the title to the timber transfers to the buyer upon severance (pay-as-cut sale). Pay-as-cut sales are exempt from REET if the seller reports and pays income under the reduced B&O rate.

Small harvesters may claim a \$100,000 B&O deduction, replacing the B&O exemption for small harvesters. Small harvesters are no longer required to file an annual survey.

Definitions related to paper and paper products are changed. "Recycled paper" is stricken from the definition of timber products. Two definitions are added: "paper" is defined as newspaper, office paper, and other papers made from at least 90 percent cellulosic material; and "paper product" is defined as items such as paper napkins, towels, and cardboard made from at least 90 percent cellulosic material. Books, newspapers, magazines, periodicals, and other printed publications are not paper products.

The calculation of the surcharge is clarified and statutory references are updated.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Ways & Means):** The definitions related to timber products are changed. "Recycled paper" is stricken from the definition of timber products. Three definitions are added: "paper," "paper product," and "timber."

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2007 for introduced bill; requested on January 29, 2007 for substitute bill.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2007.

**Staff Summary of Public Testimony:** PRO: Concerns have been raised regarding collections of the REET on pay-as-cut timber sales. Pay-as-cut sales were not directly addressed in last year's bill. Adding these sales to the timber harvesting activities that qualify for the reduced B&O rate will promote consistency and fairness in the tax code. Converting the small harvester B&O exemption to a deduction, as well as removing the survey requirement for small harvesters, will help owners of smaller parcels of timberland stay in forestry. The surcharge will support the goals of the 1999 Forest and Fish Report. The reduced B&O rate encourages the economic viability of forestry and prevents timberland from being developed. There are some concerns about whether the definitions of "paper" and "paper product" will cover all of the forest products that the Legislature intended to include.

OTHER: REET is due on sales of standing timber. It is hoped that the bill will resolve whether REET will apply to these sales.

**Persons Testifying:** PRO: Senator Hargrove, prime sponsor; Gary Graves, Washington Department of Natural Resources; Debora Munguia, Washington Forest Protection Association; Bob Meier, Rayonier; Norm Schaaf, Merrill and Ring; Bill Stauffacher, American Forest and Paper Association; Kirsten Sawin, Weyerhaeuser; Megan Lynch, Cascade Land Conservancy.

OTHER: Stuart Thronson, Department of Revenue.