

# Department of Revenue Fiscal Note

<b>Bill Number:</b> 6016 E SB	<b>Title:</b> Investment management/taxes	<b>Agency:</b> 140-Department of Revenue
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## Part I: Estimates

No Fiscal Impact

### Estimated Cash Receipts to:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
GF-STATE-State 01 - Taxes 01 - Retail Sales Tax	869,000	1,048,000	1,917,000	(280,000)	(380,000)
GF-STATE-State 01 - Taxes 05 - Bus and Occup Tax	26,800,000	30,700,000	57,500,000	66,400,000	73,400,000
Performance Audits of Government Account-State 01 - Taxes 01 - Retail Sales Tax	1,000	2,000	3,000		
<b>Total \$</b>	27,670,000	31,750,000	59,420,000	66,120,000	73,020,000

### Estimated Expenditures from:

Account	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.6	0.1	0.4		
GF-STATE-State 001-1	64,700	12,000	76,700		
<b>Total \$</b>	64,700	12,000	76,700		

### 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.

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Request # 6016-2-1

## Part II: Narrative Explanation

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

*Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

Note: This fiscal note reflects language in ESB 6016, 2019 Legislative Session.

Under current law, businesses providing “international investment management services” (IIMS):

- Must pay business & occupation (B&O) tax equal to the gross income from providing IIMS multiplied by a rate of 0.275 percent; and
- Are exempt from sales and use taxes when they purchase or use standard financial information.

For the sales and use tax exemption, the purchases are exempt regardless of how the information is transmitted to the buyer. A buyer may claim the exemption on no more than \$15 million in purchases per calendar year. This exemption expires July 1, 2021.

A person is in the business of providing IIMS if:

- The person is primarily engaged in providing investment management services, and
- At least ten percent of the person's gross income comes from providing investment management services to:
  - Persons or collective investment funds residing outside the United States, or
  - Persons or collective investment funds with at least ten percent of their investments located outside the United States.

“Investment management services” includes investment research, investment consulting, portfolio management, fund administration, fund distribution, investment transactions, or related investment services.

This bill modifies current law to:

- 1) Only allow “qualifying” IIMS to be subject to the B&O tax rate of 0.275 percent,
- 2) Define “qualifying” IIMS activities,
- 3) Change the definition of investment management services,
- 4) Require repayment of the economic benefit for the last 10 years,
- 5) Change the sales and use tax exemption to apply to persons qualifying for the B&O tax rate of 0.275 percent (as found in RCW 82.04.290(1)) and their affiliates, and
- 6) Extend the sales and use tax exemption to July 1, 2031.

A person is in the business of providing qualifying IIMS if:

- The person is primarily engaged in investment management services,
- At least ten percent of the person's gross income comes from providing investment management services to:
  - Collective investment funds commercially domiciled outside the United States, or
  - Collective investment funds with at least ten percent of their investments located outside the United States.
- More than 25 percent of the person's employees are located in Washington,
- The person is a member of an affiliated group having:
  - Ten or more offices located in at least eight foreign countries,
  - At least 500 full-time employees worldwide,
  - Worldwide gross revenue of more than \$400 million during the current or preceding calendar year, and
  - Average assets under management of more than \$200 billion during the current or preceding calendar year.

An affiliate of a person engaged in the business of providing IIMS is also deemed to be engaged in the business of providing IIMS if the affiliate:

- Is primarily engaged in providing portfolio management, fund administration, fund distribution, transfer agent services, or any combination of these activities directly or indirectly through the affiliate’s affiliated group to any of the following:
  - Collective investment funds commercially domiciled outside the United States, or

- Collective investment funds with at least ten percent of their investments located outside the United States; and
- Has more than 25 percent of the person's employees are located in Washington.

Affiliate or affiliated means a person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person. Control means the direct or indirect possession of more than 50 percent of the power to direction or cause direction of the management and policies of a person whether through the ownership of voting shares, by contract, or otherwise.

Affiliated group means any group of two or more persons affiliated with each other.

Investment management services means managing the collective assets of a collective investment fund by directly or indirectly, through a person's affiliated group, engaging in all of the following activities: portfolio management, fund administration, fund distribution, and transfer agent services.

If a person engaged in the business of providing international investment management services no longer meets the requirement to have more than 25 percent of the person's employees located in Washington then the economic benefit in the current and immediately prior nine consecutive calendar years is immediately due. The Department must assess interest but not penalties on the amount due.

The new tax preference performance statutes (RCW 82.32.805 and 82.32.808) do not apply to the changes to the B&O tax rate and definitions of qualifying IIMS (Sections 2 and 3).

The changes to the B&O tax rate and definitions of qualifying IIMS (Sections 2 and 3) take effect July 1, 2019.

The other changes in this bill take effect 90 days after final adjournment of the session in which it is enacted.

## **II. B - Cash receipts Impact**

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

- Adding affiliates to use the sales and use tax exemption provides flexibility to affiliated IIMS affiliate groups. This estimate assumes current purchases within such affiliate groups are made by qualifying IIMS businesses in the group. Thus this estimate does not anticipate any additional purchases by affiliated groups qualifying for the sales and use exemption.
- Publicly available company information accurately reflects businesses qualifying for the IIMS B&O tax rate and the sales and use tax exemption.
- The \$15 million cap applies to each individual buyer, so businesses with affiliates could have each affiliate purchase up to \$15 million in standard financial information.
- Based on the eligible taxpayers reporting the sales and use tax exemption properly, eligible taxpayers not reporting this exemption that also report more than \$10 million of IIMS activity have exempted sales representing approximately ten percent of the taxpayer's taxable IIMS activities.
- Exempted sales occur primarily in urban areas of Washington; therefore, this estimate uses the average local sales and use tax rate for urban areas of 3.05 percent to estimate local impacts.
- This estimate assumes qualifying businesses continue to meet the Washington employment provisions.
- Growth for the exempted sales varies greatly from year to year. This estimate assumes no growth occurs.
- Revenues as estimated assume passage of the proposal by April 30, 2019, allowing a full 60 days to implement.
- The sales and use tax exemption changes are effective July 26, 2019, effective date; however, the current sales and use tax exemption expires July 1, 2021.
  - Taxpayers continuing to use the sales and use tax exemption impact 11 months of collections in Fiscal Year 2022.
  - Taxpayers no longer able to use the sales and use tax exemption impact 10 months of collections in Fiscal Year 2020.
- The B&O tax changes are effective July 1, 2019, impacting 11 months of collections in Fiscal Year 2020.

## DATA SOURCES

- Department of Revenue excise tax return and buyer's addendum data
- Department of Revenue, Compliance Study 2018
- Various websites to determine eligibility

## REVENUE ESTIMATES

This bill increases state revenues by an estimated \$27.7 million in the 10 or 11 months of impacted collections in Fiscal Year 2020, and by \$31.8 million in Fiscal Year 2021, the first full year of impacted collections.

This bill also increases local revenues by an estimated \$409,000 in the 10 months of impacted collections in Fiscal Year 2020, and by \$490,000 in Fiscal Year 2021, the first full year of impacted collections. Because of the extension of the sales and use tax exemption this bill decrease local revenues beginning in Fiscal Year 2022.

## TOTAL REVENUE IMPACT:

### State Government (cash basis, \$000):

FY 2020 -	\$ 27,670
FY 2021 -	\$ 31,750
FY 2022 -	\$ 32,210
FY 2023 -	\$ 33,910
FY 2024 -	\$ 35,610
FY 2025 -	\$ 37,410

### Local Government, if applicable (cash basis, \$000):

FY 2020 -	\$ 409
FY 2021 -	\$ 490
FY 2022 -	(\$ 40)
FY 2023 -	(\$ 90)
FY 2024 -	(\$ 90)
FY 2025 -	(\$ 90)

## II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

### ASSUMPTIONS:

This legislation will affect about 310 taxpayers who will no longer qualify for the preferential business and occupation tax rate or retail sales and use tax exemption for the purchase of standard financial information.

### FIRST YEAR COSTS:

The Department will incur total costs of \$64,700 in Fiscal Year 2020. These costs include:

Labor Costs - Time and effort equates to 0.6 FTE.

- Set up, program and test computer system changes to update performance reports, revise expiration dates and descriptions.
- Update paper returns, paper addendum, and paper Performance Reports.
- Create a special notice and update or create informational materials, publications and online information.
- Respond to letter ruling requests and email inquiries.
- Assist taxpayers and respond to inquiries via phone call, web message, and paper correspondence.
- Review reports and examine accounts to make corrections as necessary.

Object Costs - \$4,400.

- Contract computer system programming.

**SECOND YEAR COSTS:**

The Department will incur total costs of \$12,000 in Fiscal Year 2021. These costs include:

Labor Costs - Time and effort equates to 0.1 FTE.

- Programming and testing computer systems for extension of the expiring sales and use tax exemption

**ONGOING COSTS:**

There are no ongoing costs.

**Part III: Expenditure Detail**

**III. A - Expenditures by Object Or Purpose**

	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years	0.6	0.1	0.4		
A-Salaries and Wages	37,900	7,800	45,700		
B-Employee Benefits	11,300	2,300	13,600		
C-Professional Service Contracts	4,400		4,400		
E-Goods and Other Services	7,100	1,200	8,300		
J-Capital Outlays	4,000	700	4,700		
<b>Total \$</b>	<b>\$64,700</b>	<b>\$12,000</b>	<b>\$76,700</b>		

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

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
EMS BAND 4	115,593	0.0		0.0		
EMS BAND 5	135,039	0.0		0.0		
EXCISE TAX EX 3	56,256	0.1		0.1		
FORMS AND RECORDS	54,924	0.1		0.1		
ANALYST SUPV IT SPEC 5	77,616		0.1	0.1		
MGMT ANALYST1	45,096	0.0		0.0		
MGMT ANALYST4	63,684	0.1		0.1		
TAX INFO SPEC 4	60,636	0.2		0.1		
TAX POLICY SP 2	68,580	0.0		0.0		
TAX POLICY SP 3	77,616	0.1		0.0		
TAX POLICY SP 4	83,556	0.0		0.0		
WMS BAND 3	98,308	0.0		0.0		
<b>Total FTEs</b>		0.6	0.1	0.4		

**Part IV: Capital Budget Impact**

None.

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Should this legislation become law, the Department will use the expedited rule-making process to amend WAC 458-20-15503, titled: "Digital products". Persons affected by this rule making would include sellers of standard financial information to international investment firms.