
SENATE BILL 5855

State of Washington

63rd Legislature

2013 Regular Session

By Senators Keiser, Hatfield, and Litzow

1 AN ACT Relating to providing a business and occupation tax
2 exemption for amounts received by hotel management companies for
3 covered employee costs; and adding a new section to chapter 82.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
6 to read as follows:

7 (1) This chapter does not apply to amounts received by a hotel
8 management company from a hotel owner for covered employee costs.

9 (2) For the purposes of this section, the following definitions
10 apply:

11 (a) "Covered employee" means a person who meets all of the
12 following conditions:

13 (i) The person has an employment relationship with a hotel
14 management company providing hotel operations, management, and/or
15 promotional services to a hotel owner;

16 (ii) The person works primarily at a hotel or associated facility
17 of the hotel owner; and

18 (iii) The person's duties primarily consist of activities that
19 directly or indirectly support the operations, management, and/or

1 promotion of the hotel and associated facilities, including without
2 limitation renting property units, operating and maintaining the hotel
3 and associated facilities, collecting fees, and hotel and facilities
4 promotion.

5 (b) "Covered employee costs" means the actual cost of wages and
6 salaries, benefits, workers' compensation, payroll taxes, withholding,
7 or other assessments paid to or on behalf of a covered employee by the
8 hotel management company pursuant to a hotel management services
9 agreement, including without limitation, all amounts paid in cash or in
10 kind by the hotel management company (i) that are treated for tax
11 purposes as constituting wages or fringe benefits of a covered
12 employee, (ii) that are contributions to pensions plans for the benefit
13 of a covered employee, (iii) that are contributions to insurance plans
14 for the benefit of a covered employee, and (iv) that are payments
15 required under collective bargaining agreements for the benefit of a
16 covered employee. For purposes of this section only, covered employee
17 costs also include taxes or other governmental assessments imposed on
18 the hotel management company as a result of the employment of a covered
19 employee.

20 (c) "Hotel management services agreement" means a contract by and
21 between a hotel owner and a hotel management company under which:

22 (i) The services provided to the hotel owner primarily relate to
23 the operations, management, and/or promotion of the hotel or associated
24 facilities including, without limitation, marketing and reservations,
25 recruitment and supervision of persons operating the hotel and
26 facilities, centralized services generally supportive of the hotel and
27 facilities, or any other activity that directly or indirectly supports
28 the operations, management, and/or promotion of the hotel and
29 associated facilities;

30 (ii) The covered employee costs are funded by the hotel owner
31 through a separate account used exclusively to fund covered employee
32 costs and, at the option of the hotel owner, other costs associated
33 with the operation of the hotel, which account is in the name of, and
34 under the taxpayer identification number of, the hotel owner, but for
35 which the hotel management company may have signing authority;

36 (iii) The hotel management company is required to pay the covered
37 employee costs and must use the funds in the account established under

1 (c)(ii) of this subsection to either make such payments or recover the
2 costs of making such payments; and

3 (iv) The hotel management company does not receive any markup
4 calculated with respect to the amount of the covered employee costs
5 paid into the account established under (c)(ii) of this subsection.

6 (d) "Hotel management company" means any person engaged in the
7 business of providing operations, management, and/or promotional
8 services under a hotel management services agreement and:

9 (i) More than fifty percent of the employees providing services at
10 a hotel and associated facilities of the hotel owner are covered
11 employees; and

12 (ii) The hotel management company is not providing staffing
13 services as defined under RCW 82.04.540(3)(h).

14 (e) "Hotel owner" means any person that owns or leases a hotel, as
15 well as any asset management company acting on behalf of such a person.

--- END ---