

Strike section 2601 from SB 6873 *(Property Management Salaries)*

The current B & O tax exemption exists due to the fact that the wages paid to on-site personnel who work exclusively or primarily on-site for an owner are simply a pass through operating expense from the owner of the property. Owners are not paying for services rendered, they are reimbursing for direct operating costs, and thus this reimbursement has not and should not be subjected to B&O tax.

The existing exemption, **current law recognizes this and should be maintained.** It was intended to block erroneous interpretations of law and fact by DOR that transfers of on-site employee property management wages, benefits and payroll taxes from third party property management trust accounts to payroll accounts maintained by these management companies are revenue to the management companies and should be subjected to assessment of B&O taxes. Whether the funds transfers precede the disbursement of payroll, benefits and payroll taxes or were dollar for dollar reimbursements of funds advanced by the management companies, in no way, shape or form is this revenue to the companies, and should not be taxable as gross receipts. It would be a gross misinterpretation of law and an inequity in law to judge these transfers as revenue to management companies, and attach B&O tax liability; whether or not there is a codified exemption.

Example: This bill would take away 32% of our profits: The profit margins of property management companies are nominal and they cannot absorb new taxes. One company provides this analysis: Projected annual payroll transfers (reimbursements) for our portfolio of 2,000 multifamily units. Calculating the B&O tax at 1.5% of total and budgeted management fees for the entire portfolio and assumed profit margin for the management company's apartment division at 10% of gross management fee. This proposal to apply B&O tax to reimbursable on-site payroll transfers totals 32% of our net profit. The market cannot support recovery of such a loss from either the owner or the tenant.

If Senate Bill 6873 is passed without removing Section 2601, property owners will be forced to make draconian cuts, and the largest expense would have to be staffing. This is where the cuts will be made, and **jobs will be lost and families will be hurt.**

Current status of Commercial real estate: Example:

- ⇒ Office asset values have declined 30% in the past 24 months [30%]
- ⇒ Office rents have declined 20-25% in the past 18 months [20-25%]
- ⇒ Office vacancies have risen to between 12-20% across the state [12-20%]
- ⇒ Office vacancies in Seattle are one fifth of the market – one fifth of all office space is without businesses and tenants
- ⇒ Third party property management companies cannot pass through this new tax
- ⇒ State will not see the projected revenue as reimbursement payments to property management firms will decrease as jobs decrease

On behalf of the Building Owners and Manager Association, the Institute of Real Estate Management, the Washington Rental Housing Industry Coalition, the Washington Realtors Association, and the Washington Real Estate Coalition, we respectfully ask that you to strike Section 2601 from Senate Bill 6873 and do not repeal tax exemption on property management reimbursed on-site salaries.

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Existing law:

82.04.394 -- Exemptions—Amounts received by property management company for on-site personnel.

(1) This chapter does not apply to amounts received by a property management company from the owner of a property for gross wages and benefits paid directly to or on behalf of on-site personnel from property management **trust accounts** that are required to be maintained under RCW 18.85.310 .

(2) As used in this section, “on-site personnel” means a person who meets all of the following conditions: (a) The person works primarily at the owner's property; (b) the person's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and (c) under a written property management agreement: (i) The person's compensation is the ultimate obligation of the property owner and not the property manager; (ii) the property manager is liable for payment only as agent of the owner; and (iii) the property manager is the agent of the owner with respect to the on-site personnel and that all actions, including, but not limited to, hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.