



New Law Limits First Mortgage Deduction for B&O Tax

New law

Effective July 1, 2012, Part I of [Engrossed Senate Bill 6635](#), Chapter 6, Laws of 2012 narrows the business and occupation (B&O) tax deduction for interest on first mortgages or trust deeds.

Limits to the deduction

[RCW 82.04.4292](#) provides a deduction for persons engaging in banking, loan, security, or other financial businesses on interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. Beginning July 1, 2012, [RCW 82.04.4292](#) will exclude from the deduction the amounts received as interest on loans originated by a person or an affiliate of such person located in more than ten states.

Determining the number of states

A person is located in a state if:

- The person or an affiliate of the person maintains a branch, office, or one or more employees or representatives in the state; and
- Such in-state presence allows borrowers or potential borrowers to contact the branch, office, employee, or representative concerning the acquiring, negotiating, renegotiating, or restructuring of, or making payments on, mortgages issued or to be issued by the person or an affiliate of the person.

Definitions

Affiliate – means a person is affiliated with another person, and “affiliated” means under common control.

Control – means the possession, directly or indirectly, of more than 50 percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

Interest – includes the portion of fees charged to borrowers, including points and loan origination fees, that is recognized over the life of the loan as an adjustment to yield in the taxpayer’s books and records according to generally accepted accounting principles. It also includes servicing fees described in [RCW 82.04.4292\(4\)](#).

For more information

Contact the Department’s Telephone Information Center at 360-705-6705.