

Alert | State & Local Tax (SALT)



January 2023

Washington Introduces Business & Occupation – Margins Tax Swap Bill

Since 2017, the Washington Tax Structure Work Group (TSWG)—a group of bipartisan Washington legislators, representatives from the Governor’s office, the Washington Department of Revenue, Washington State Association of Counties, and Association of Washington Cities—has been tasked with reviewing Washington’s tax structure. The primary goal of TSWG’s review was to identify ways to make “Washington’s tax code more fair, adequate and transparent.” See [TSWG overview](#). Since May 2022, the TSWG has been discussing a proposal that would repeal the Washington Business and Occupation (B&O) Tax and replace it with a Texas-style Margins Tax. On Jan. 19, 2023, [S.B. 5482](#)—a bill that, if enacted, would make that swap effective Jan. 1, 2027—was introduced by four members of the TSWG (Senators Frame, Wagoner, Wellman, and Nguyen).

S.B. 5482, as introduced, would impose a Texas-style Margins Tax at a rate of 3.1966%. Furthermore, the bill includes an “easy computation and rate” at 1.75% for businesses with \$5 million or less of gross income and would be computed based on the business’s gross receipts without any deductions.

The bill also proposes a framework for filing the return and the computation of the “taxable margin” under the general Margins Tax. First, a business would be required to file on a combined basis and deduct payments between affiliate members (i.e., intercompany eliminations). Next, the taxable margin would be equal to a business’s worldwide gross income less cost inputs (or cost of goods sold), compensation

capped at \$400,000 per employee, \$1 million (the standard deduction), or 30% of a business's worldwide gross income.

Notably, S.B. 5482 does not address whether Washington localities would also be required to replace their B&O taxes with a Margins Tax. In addition, S.B. 5482 appears to maintain several surcharges, including the 1.2% surcharge on specified financial institutions, currently in place for purposes of the B&O Tax, and the rate being proposed in S.B. 5482 is significantly higher than the Texas Margins Tax general rates of 0.75% (for businesses other than retail or wholesale) and 0.375% (for retail and wholesale) and the EZ computation rate of 0.33%. S.B. 5482 is scheduled for a public hearing in the Senate Committee on Business, Financial Services, Gaming and Trade on Jan. 26 at 10:30 a.m.

**Greenberg Traurig is not licensed to practice law in Washington and does not advise on Washington law. Specific questions and Washington legal compliance issues will be referred to lawyers licensed to practice law in Washington.*

Author

This GT Alert was prepared by:

- [Nikki E. Dobay](#) | +1 916.868.0616 | Nikki.Dobay@gtlaw.com

Additional Greenberg Traurig's State and Local Tax Team Members:

- [Lawrence H. Brenman](#) | +1 312.456.8437 | brenmanl@gtlaw.com
- [G. Michelle Ferreira](#) | +1 415.655.1305 | ferreiram@gtlaw.com
- [Scott E. Fink](#) | +1 212.801.6955 | finks@gtlaw.com
- [Colin W. Fraser](#) | +1 949.732.6663 | frasercw@gtlaw.com
- [Brian Gaudet](#) ‡ | +1 617.310.6000 | gaudetb@gtlaw.com
- [Courtney A. Hopley](#) | +1 415.655.1314 | hopleyc@gtlaw.com
- [Barbara T. Kaplan](#) | +1 212.801.9250 | kaplanb@gtlaw.com
- [Marvin A. Kirsner](#) | +1 954.768.8224 | kirsnerm@gtlaw.com
- [Ivy J. Lapidés](#) | +1 212.801.9208 | lapidesi@gtlaw.com
- [Martin L. Lepelstat](#) | +1 973.443.3501 | lepelstatm@gtlaw.com
- [Jonathan I. Lessner](#) | +1 302.661.7363 | lessnerj@gtlaw.com
- [Natalie Mackary](#) | +1 949.732.6540 | mackaryn@gtlaw.com
- [Joel D. Maser](#) | +1 954.765.0500 | maserj@gtlaw.com
- [Richard J. Melnick](#) | +1 703.903.7505 | melnickr@gtlaw.com
- [Marc J. Musyl](#) | +1 303.572.6585 | musylm@gtlaw.com
- [Glenn Newman](#) | +1 212.801.3190 | newmang@gtlaw.com
- [Neil Oberfeld](#) | +1 303.685.7414 | oberfeldn@gtlaw.com
- [Cris K. O'Neill](#) | +1 949.732.6610 | onealle@gtlaw.com

- Shira Peleg | +1 212.801.6754 | pelegs@gtlaw.com
- Josh Prywes | +1 214.665.3626 | prywesj@gtlaw.com
- James P. Redding ‡ | +1 617.310.6061 | reddingj@gtlaw.com
- Andrew P. Rubin | +1 303.572.6552 | rubina@gtlaw.com
- Jake B. Smith | +1 602.445.8334 | smithjake@gtlaw.com
- Jennifer A. Vincent | +1 415.655.1249 | vincentj@gtlaw.com

‡ Admitted in Massachusetts only. Authorized to engage in supervised practice in Florida under the terms of Florida Supreme Court Administrative Order AOSC20-80.

‡ Admitted in Massachusetts and Rhode Island. Not Admitted in Florida.

Albany. Amsterdam. Atlanta. Austin. Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Germany. 7
Houston. Las Vegas. London.* Long Island. Los Angeles. Mexico City.+ Miami. Milan.» Minneapolis. New Jersey. New York.
Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Francisco.
Seoul.∞ Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv.^ Tokyo.* Warsaw.- Washington, D.C.. West Palm Beach.
Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. 7Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ‡Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimbengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2023 Greenberg Traurig, LLP. All rights reserved.*