

JAY INSLEE  
Governor



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May 18, 2021

To the Honorable Speaker and Members,  
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, House Bill No. 1495 entitled:

“AN ACT Relating to providing that qualified dealer cash incentives paid to auto dealers are bona fide discounts for purposes of the business and occupation tax.”

As drafted, House Bill 1495 would provide automobile dealers with a business and occupation (B&O) tax deduction for qualified dealer cash incentives. Auto dealers earn taxable income by purchasing vehicles at wholesale from automobile manufacturers to sell at retail to consumers. However, dealers can also earn dealer cash incentives by selling specific automobile models during specific times and by complying with other terms and conditions. The Washington State Supreme Court concluded in *Steven Klein Inc. v. State Department of Revenue*, 183 Wash.2d 889 (2015), that this “dealer cash” is income received by auto dealers in addition to the income they receive from retail sales and, therefore, constitutes an additional taxable business activity. The Court further found that dealer cash incentives do not qualify as bona fide discounts to the wholesale purchase price of vehicles.

The Court's ruling is aligned with normal principles of good tax policy as well as the intent of the B&O tax. The B&O tax is intended to be a gross receipts tax on essentially all income. Allowing a specific deduction for the portion of gross income associated with dealer cash incentives would introduce additional complexity into our tax system, erode Washington's tax base, and reduce revenues needed to provide critical services to Washington residents – all without providing a recognizable countervailing benefit to the people of this state.

By providing a B&O tax deduction for this income stream, HB 1495 would nullify the Court's decision related to the taxability of dealer cash incentives. As a result, HB 1495 would be a departure from normal principles of good tax policy without a compelling public policy reason to justify that departure. In addition, it is concerning that there is no requirement for a dealer who receives these incentives to pass on or even disclose these savings to the retail buyer.

For these reasons I have vetoed House Bill No. 1495 in its entirety.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Jay Inslee", is written over a faint, light-colored rectangular stamp or watermark.

Jay Inslee  
Governor