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HOUSE BILL 2223

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State of Washington                      52nd Legislature    1991 1st Special Session

By Representatives Wang, Morris, Phillips, Locke, Belcher, Spanel, Fraser, Brekke, Cole, Valle, Leonard, Ogden, Ebersole, Nelson, Prentice, Jacobsen, Pruitt, Braddock and Anderson.

Read first time June 17, 1991. Referred to Committee on Revenue.

1            AN ACT Relating to tax reform; amending RCW 48.32A.090, 82.04.050,  
2 82.04.080, 82.04.190, 82.04.300, 82.04.390, 82.04.4281, 82.04.4292,  
3 82.04.4293, 82.08.020, 82.16.040, and 82.16.050; adding a new section  
4 to chapter 82.04 RCW; adding a new chapter to Title 82 RCW; creating a  
5 new section; repealing RCW 48.32.145, 82.04.315, 82.04.4287,  
6 82.08.0276, 82.08.0311, 82.12.0263, 82.12.0271, 82.12.0272, and  
7 82.12.0311; providing an effective date; and declaring an emergency.

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

9            **Sec. 1.** RCW 48.32A.090 and 1990 c 51 s 6 are each amended to read  
10 as follows:

11            (1) The association shall issue to each insurer paying an  
12 assessment under this chapter certificates of contribution, in  
13 appropriate form and terms as prescribed or approved by the  
14 commissioner, for the amounts so paid into the respective funds. All

1 outstanding certificates against a particular fund shall be of equal  
2 dignity and priority without reference to amounts or dates of issue.

3 (2) An outstanding certificate of contribution shall be shown by  
4 the insurer in its financial statements as an admitted asset for such  
5 amount and period of time as the commissioner may approve: PROVIDED,  
6 That unless a longer period has been allowed by the commissioner the  
7 insurer shall in any event at its option have the right to so show a  
8 certificate of contribution as an admitted asset at percentages of  
9 original face amount for calendar years as follows:

- 10 100% for the calendar year of issuance;
- 11 80% for the first calendar year after the year of issuance;
- 12 60% for the second calendar year after the year of issuance;
- 13 40% for the third calendar year after the year of issuance;
- 14 20% for the fourth calendar year after the year of issuance; and
- 15 0% for the fifth and subsequent calendar years after the year of  
16 issuance.

17 Notwithstanding the foregoing, if the value of a certificate of  
18 contribution is or becomes less than one thousand dollars, the entire  
19 amount may be written off by the insurer in that year.

20 ~~(3) ((The insurer shall offset the amount written off by it in a  
21 calendar year under subsection (2) of this section against its premium  
22 tax liability to this state accrued with respect to business transacted  
23 in such year.~~

24 ~~(4))~~ Any sums recovered by the association representing sums which  
25 have theretofore been written off by contributing insurers and offset  
26 against premium taxes ~~((as provided in subsection (3) of this  
27 section,))~~ before the effective date of this act shall be paid by the  
28 association to the commissioner and ~~((by him))~~ then deposited with the

1 state treasurer for credit to the general fund of the state of  
2 Washington.

3 ~~((+5))~~ (4) No distribution to stockholders, if any, of a  
4 liquidating insurer shall be made unless and until the total amount of  
5 assessments levied by the association with respect to such insurer have  
6 been fully recovered by the association.

7 **Sec. 2.** RCW 82.04.050 and 1988 c 253 s 1 are each amended to read  
8 as follows:

9 (1) "Sale at retail" or "retail sale" means every sale of tangible  
10 personal property (including articles produced, fabricated, or  
11 imprinted) to all persons irrespective of the nature of their business  
12 and including, among others, without limiting the scope hereof, persons  
13 who install, repair, clean, alter, improve, construct, or decorate real  
14 or personal property of or for consumers other than a sale to a person  
15 who (a) purchases for the purpose of resale as tangible personal  
16 property in the regular course of business without intervening use by  
17 such person, or (b) installs, repairs, cleans, alters, imprints,  
18 improves, constructs, or decorates real or personal property of or for  
19 consumers, if such tangible personal property becomes an ingredient or  
20 component of such real or personal property without intervening use by  
21 such person, or (c) purchases for the purpose of consuming the property  
22 purchased in producing for sale a new article of tangible personal  
23 property or substance, of which such property becomes an ingredient or  
24 component or is a chemical used in processing, when the primary purpose  
25 of such chemical is to create a chemical reaction directly through  
26 contact with an ingredient of a new article being produced for sale, or  
27 (d) purchases for the purpose of consuming the property purchased in  
28 producing ferrosilicon which is subsequently used in producing  
29 magnesium for sale, if the primary purpose of such property is to

1 create a chemical reaction directly through contact with an ingredient  
2 of ferrosilicon, or (e) purchases for the purpose of providing the  
3 property to consumers as part of competitive telephone service, as  
4 defined in RCW 82.04.065. The term shall include every sale of  
5 tangible personal property which is used or consumed or to be used or  
6 consumed in the performance of any activity classified as a "sale at  
7 retail" or "retail sale" even though such property is resold or  
8 utilized as provided in (a), (b), (c), (d), or (e) above following such  
9 use. The term also means every sale of tangible personal property to  
10 persons engaged in any business which is taxable under RCW 82.04.280,  
11 subsections (2) and (7) and RCW 82.04.290.

12 (2) Notwithstanding subsection (1)(c) of this section, "sale at  
13 retail" or "retail sale" includes every sale of tangible personal  
14 property to persons purchasing for the purpose of consuming the  
15 property purchased in producing for sale any of the following articles  
16 of tangible personal property:

17 (a) Property for use in connection with the business of operating  
18 as a private or common carrier by air, rail, or water in interstate or  
19 foreign commerce.

20 (b) Airplanes, locomotives, railroad cars, or watercraft for use in  
21 conducting interstate or foreign commerce by transporting therein or  
22 therewith property and persons for hire or for use in conducting  
23 commercial deep sea fishing operations outside the territorial waters  
24 of the state; also tangible personal property that becomes a component  
25 part of such airplanes, locomotives, railroad cars, or watercraft, and  
26 of motor vehicles or trailers whether owned by or leased with or  
27 without drivers and used by the holder of a carrier permit issued by  
28 the interstate commerce commission authorizing transportation by motor  
29 vehicle across the boundaries of this state, in the course of  
30 constructing, repairing, cleaning, altering, or improving the same.

1       (c) Motor vehicles and trailers to be used for the purpose of  
2 transporting therein persons or property for hire in interstate or  
3 foreign commerce whether such use is by the owner or whether such motor  
4 vehicles and trailers are leased to the user with or without drivers:  
5 PROVIDED, That the purchaser or user must be the holder of a carrier  
6 permit issued by the interstate commerce commission and that the  
7 vehicles will first move upon the highways of this state from the point  
8 of delivery in this state to a point outside of this state under the  
9 authority of a one-transit permit issued by the director of licensing  
10 pursuant to the provisions of RCW 46.16.160.

11       (3) The term "sale at retail" or "retail sale" shall include the  
12 sale of or charge made for tangible personal property consumed and/or  
13 for labor and services rendered in respect to the following: (a) The  
14 installing, repairing, cleaning, altering, imprinting, or improving of  
15 tangible personal property of or for consumers, including charges made  
16 for the mere use of facilities in respect thereto, but excluding  
17 charges made for the use of coin operated laundry facilities when such  
18 facilities are situated in an apartment house, hotel, motel, rooming  
19 house, trailer camp or tourist camp for the exclusive use of the  
20 tenants thereof, and also excluding sales of laundry service to members  
21 by nonprofit associations composed exclusively of nonprofit hospitals,  
22 and excluding services rendered in respect to live animals, birds and  
23 insects; (b) the constructing, repairing, decorating, or improving of  
24 new or existing buildings or other structures under, upon, or above  
25 real property of or for consumers, including the installing or  
26 attaching of any article of tangible personal property therein or  
27 thereto, whether or not such personal property becomes a part of the  
28 realty by virtue of installation, and shall also include the sale of  
29 services or charges made for the clearing of land and the moving of  
30 earth excepting the mere leveling of land used in commercial farming or

1 agriculture; (c) the charge for labor and services rendered in respect  
2 to constructing, repairing, or improving any structure upon, above, or  
3 under any real property owned by an owner who conveys the property by  
4 title, possession, or any other means to the person performing such  
5 construction, repair, or improvement for the purpose of performing such  
6 construction, repair, or improvement and the property is then  
7 reconveyed by title, possession, or any other means to the original  
8 owner; (d) the sale of or charge made for labor and services rendered  
9 in respect to the cleaning, fumigating, razing or moving of existing  
10 buildings or structures, but shall not include the charge made for  
11 janitorial services; and for purposes of this section the term  
12 "janitorial services" shall mean those cleaning and caretaking services  
13 ordinarily performed by commercial janitor service businesses  
14 including, but not limited to, wall and window washing, floor cleaning  
15 and waxing, and the cleaning in place of rugs, drapes and upholstery.  
16 The term "janitorial services" does not include painting, papering,  
17 repairing, furnace or septic tank cleaning, snow removal or  
18 sandblasting; (e) the sale of or charge made for labor and services  
19 rendered in respect to automobile towing and similar automotive  
20 transportation services, but not in respect to those required to report  
21 and pay taxes under chapter 82.16 RCW; (f) the sale of and charge made  
22 for the furnishing of lodging and all other services by a hotel,  
23 rooming house, tourist court, motel, trailer camp, and the granting of  
24 any similar license to use real property, as distinguished from the  
25 renting or leasing of real property, and it shall be presumed that the  
26 occupancy of real property for a continuous period of one month or more  
27 constitutes a rental or lease of real property and not a mere license  
28 to use or enjoy the same; (g) the sale of or charge made for tangible  
29 personal property, labor and services to persons taxable under (a),  
30 (b), (c), (d), (e), and (f) above when such sales or charges are for

1 property, labor and services which are used or consumed in whole or in  
2 part by such persons in the performance of any activity defined as a  
3 "sale at retail" or "retail sale" even though such property, labor and  
4 services may be resold after such use or consumption. Nothing  
5 contained in this paragraph shall be construed to modify the first  
6 paragraph of this section and nothing contained in the first paragraph  
7 of this section shall be construed to modify this paragraph.

8 ~~((3))~~ (4) The term "sale at retail" or "retail sale" shall  
9 include the sale of or charge made for personal business or  
10 professional services including amounts designated as interest, rents,  
11 fees, admission, and other service emoluments however designated,  
12 received by persons engaging in the following business activities: (a)  
13 Amusement and recreation businesses including but not limited to golf,  
14 pool, billiards, skating, bowling, ski lifts and tows and others; (b)  
15 abstract, title insurance and escrow businesses; (c) credit bureau  
16 businesses; (d) automobile parking and storage garage businesses.

17 ~~((4))~~ (5) The term shall also include the renting or leasing of  
18 tangible personal property to consumers.

19 ~~((5))~~ (6) The term shall also include the providing of telephone  
20 service, as defined in RCW 82.04.065, to consumers.

21 ~~((6))~~ (7) The term shall not include the sale of or charge made  
22 for labor and services rendered in respect to the building, repairing,  
23 or improving of any street, place, road, highway, easement, right of  
24 way, mass public transportation terminal or parking facility, bridge,  
25 tunnel, or trestle which is owned by a municipal corporation or  
26 political subdivision of the state or by the United States and which is  
27 used or to be used primarily for foot or vehicular traffic including  
28 mass transportation vehicles of any kind. The term shall also not  
29 include sales of feed, seed, seedlings, fertilizer, and spray materials  
30 to persons who participate in the federal conservation reserve program

1 or its successor administered by the United States department of  
2 agriculture, or to persons for the purpose of producing for sale any  
3 agricultural product whatsoever, including plantation Christmas trees  
4 and milk, eggs, wool, fur, meat, honey, or other substances obtained  
5 from animals, birds, or insects but only when such production and  
6 subsequent sale are exempt from tax under RCW 82.04.330, nor shall it  
7 include sales of chemical sprays or washes to persons for the purpose  
8 of post-harvest treatment of fruit for the prevention of scald, fungus,  
9 mold, or decay.

10 ~~((7))~~ (8) The term shall not include the sale of or charge made  
11 for labor and services rendered in respect to the constructing,  
12 repairing, decorating, or improving of new or existing buildings or  
13 other structures under, upon, or above real property of or for the  
14 United States, any instrumentality thereof, or a county or city housing  
15 authority created pursuant to chapter 35.82 RCW, including the  
16 installing, or attaching of any article of tangible personal property  
17 therein or thereto, whether or not such personal property becomes a  
18 part of the realty by virtue of installation. Nor shall the term  
19 include the sale of services or charges made for the clearing of land  
20 and the moving of earth of or for the United States, any  
21 instrumentality thereof, or a county or city housing authority.

22 **Sec. 3.** RCW 82.04.080 and 1961 c 15 s 82.04.080 are each amended  
23 to read as follows:

24 "Gross income of the business" means the value proceeding or  
25 accruing by reason of the transaction of the business engaged in and  
26 includes gross proceeds of sales, compensation for the rendition of  
27 services, gains realized from trading in stocks, bonds, or other  
28 evidences of indebtedness, interest, discount, rents, royalties, fees,  
29 commissions, dividends, gains realized from sales of real property, and

1 other emoluments however designated, all without any deduction on  
2 account of the cost of tangible property sold, the cost of materials  
3 used, labor costs, interest, discount, delivery costs, taxes, or any  
4 other expense whatsoever paid or accrued and without any deduction on  
5 account of losses.

6 **Sec. 4.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to read  
7 as follows:

8 "Consumer" means the following:

9 (1) Any person who purchases, acquires, owns, holds, or uses any  
10 article of tangible personal property irrespective of the nature of the  
11 person's business and including, among others, without limiting the  
12 scope hereof, persons who install, repair, clean, alter, improve,  
13 construct, or decorate real or personal property of or for consumers  
14 other than for the purpose (a) of resale as tangible personal property  
15 in the regular course of business or (b) of incorporating such property  
16 as an ingredient or component of real or personal property when  
17 installing, repairing, cleaning, altering, imprinting, improving,  
18 constructing, or decorating such real or personal property of or for  
19 consumers or (c) of consuming such property in producing for sale a new  
20 article of tangible personal property or a new substance, of which such  
21 property becomes an ingredient or component or as a chemical used in  
22 processing, when the primary purpose of such chemical is to create a  
23 chemical reaction directly through contact with an ingredient of a new  
24 article being produced for sale or (d) purchases for the purpose of  
25 consuming the property purchased in producing ferrosilicon which is  
26 subsequently used in producing magnesium for sale, if the primary  
27 purpose of such property is to create a chemical reaction directly  
28 through contact with an ingredient of ferrosilicon;

1       (2) Notwithstanding subsection (1)(c) of this section, "consumer"  
2 includes any person who purchases, acquires, owns, holds, or uses any  
3 article of tangible personal property for the purpose of consuming the  
4 property in producing for sale any of the following articles of  
5 tangible personal property:

6       (a) Property for use in connection with the business of operating  
7 as a private or common carrier by air, rail, or water in interstate or  
8 foreign commerce.

9       (b) Airplanes, locomotives, railroad cars, or watercraft for use in  
10 conducting interstate or foreign commerce by transporting therein or  
11 therewith property and persons for hire or for use in conducting  
12 commercial deep sea fishing operations outside the territorial waters  
13 of the state; also tangible personal property that becomes a component  
14 part of such airplanes, locomotives, railroad cars, or watercraft, and  
15 of motor vehicles or trailers whether owned by or leased with or  
16 without drivers and used by the holder of a carrier permit issued by  
17 the interstate commerce commission authorizing transportation by motor  
18 vehicle across the boundaries of this state, in the course of  
19 constructing, repairing, cleaning, altering, or improving the same.

20       (c) Motor vehicles and trailers to be used for the purpose of  
21 transporting therein persons or property for hire in interstate or  
22 foreign commerce whether such use is by the owner or whether such motor  
23 vehicles and trailers are leased to the user with or without drivers:  
24 PROVIDED, That the purchaser or user must be the holder of a carrier  
25 permit issued by the interstate commerce commission and that the  
26 vehicles will first move upon the highways of this state from the point  
27 of delivery in this state to a point outside of this state under the  
28 authority of a one-transit permit issued by the director of licensing  
29 pursuant to the provisions of RCW 46.16.160.

1        (3) Any person engaged in any business activity taxable under RCW  
2 82.04.290 and any person who purchases, acquires, or uses any telephone  
3 service as defined in RCW 82.04.065, other than for resale in the  
4 regular course of business;

5        (~~(3)~~) (4) Any person engaged in the business of contracting for  
6 the building, repairing or improving of any street, place, road,  
7 highway, easement, right of way, mass public transportation terminal or  
8 parking facility, bridge, tunnel, or trestle which is owned by a  
9 municipal corporation or political subdivision of the state of  
10 Washington or by the United States and which is used or to be used  
11 primarily for foot or vehicular traffic including mass transportation  
12 vehicles of any kind as defined in RCW 82.04.280, in respect to  
13 tangible personal property when such person incorporates such property  
14 as an ingredient or component of such publicly owned street, place,  
15 road, highway, easement, right of way, mass public transportation  
16 terminal or parking facility, bridge, tunnel, or trestle by installing,  
17 placing or spreading the property in or upon the right of way of such  
18 street, place, road, highway, easement, bridge, tunnel, or trestle or  
19 in or upon the site of such mass public transportation terminal or  
20 parking facility;

21        (~~(4)~~) (5) Any person who is an owner, lessee or has the right of  
22 possession to or an easement in real property which is being  
23 constructed, repaired, decorated, improved, or otherwise altered by a  
24 person engaged in business, excluding only (a) municipal corporations  
25 or political subdivisions of the state in respect to labor and services  
26 rendered to their real property which is used or held for public road  
27 purposes, and (b) the United States, instrumentalities thereof, and  
28 county and city housing authorities created pursuant to chapter 35.82  
29 RCW in respect to labor and services rendered to their real property.

1 Nothing contained in this or any other subsection of this definition  
2 shall be construed to modify any other definition of "consumer";

3 ~~((5))~~ (6) Any person who is an owner, lessee, or has the right of  
4 possession to personal property which is being constructed, repaired,  
5 improved, cleaned, imprinted, or otherwise altered by a person engaged  
6 in business;

7 ~~((6))~~ (7) Any person engaged in the business of constructing,  
8 repairing, decorating, or improving new or existing buildings or other  
9 structures under, upon, or above real property of or for the United  
10 States, any instrumentality thereof, or a county or city housing  
11 authority created pursuant to chapter 35.82 RCW, including the  
12 installing or attaching of any article of tangible personal property  
13 therein or thereto, whether or not such personal property becomes a  
14 part of the realty by virtue of installation; also, any person engaged  
15 in the business of clearing land and moving earth of or for the United  
16 States, any instrumentality thereof, or a county or city housing  
17 authority created pursuant to chapter 35.82 RCW. Any such person shall  
18 be a consumer within the meaning of this subsection in respect to  
19 tangible personal property incorporated into, installed in, or attached  
20 to such building or other structure by such person.

21 **Sec. 5.** RCW 82.04.300 and 1983 c 3 s 213 are each amended to read  
22 as follows:

23 This chapter shall apply to any person engaging in any business  
24 activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.260,  
25 82.04.270, 82.04.280 and 82.04.290 other than those whose value of  
26 products, gross proceeds of sales, or gross income of the business is  
27 less than ~~((one))~~ four thousand two hundred dollars per month:  
28 PROVIDED, That where one person engages in more than one business  
29 activity and the combined measures of the tax applicable to such

1 businesses equal or exceed (~~one~~) four thousand two hundred dollars  
2 per month, no exemption or deduction from the amount of tax is allowed  
3 by this section.

4 Any person claiming exemption under the provisions of this section  
5 may be required to file returns even though no tax may be due:  
6 PROVIDED, FURTHER, That the department of revenue may allow exemptions,  
7 by general rule or regulation, in those instances in which quarterly,  
8 semiannual, or annual returns are permitted. Exemptions for such  
9 periods shall be equivalent in amount to the total of exemptions for  
10 each month of a reporting period.

11 **Sec. 6.** RCW 82.04.390 and 1961 c 15 s 82.04.390 are each amended  
12 to read as follows:

13 This chapter shall not apply to (~~gross proceeds~~) amounts derived  
14 from the sale of owner-occupied residential real estate with a selling  
15 price of five hundred thousand dollars or less. This however, shall  
16 not be construed to allow a deduction of amounts received as  
17 commissions from the sale of real estate, nor as fees, handling  
18 charges, discounts, interest or similar financial charges resulting  
19 from, or relating to, real estate transactions.

20 **Sec. 7.** RCW 82.04.4281 and 1980 c 37 s 2 are each amended to read  
21 as follows:

22 (1) In computing tax there may be deducted from the measure of tax  
23 amounts derived by persons(~~(, other than those engaging in banking,~~  
24 ~~loan, security, or other financial businesses,)~~) from investments or  
25 the use of money as such, (~~and also~~) except:

26 (a) Amounts derived by persons engaging in banking, loan, security,  
27 or other financial businesses.

1        (b) Amounts derived by any person as interest income, dividend  
2 income, gains realized from trading in stocks, bonds, or other  
3 evidences of indebtedness, or gains realized from sales of real  
4 property.

5        (2) In computing tax there may be deducted from the measure of tax  
6 amounts derived as dividends by a parent from its subsidiary  
7 corporations.

8        **Sec. 8.** RCW 82.04.4292 and 1980 c 37 s 12 are each amended to read  
9 as follows:

10        In computing tax there may be deducted from the measure of tax (~~by~~  
11 ~~those engaged in banking, loan, security or other financial~~  
12 ~~businesses,~~) amounts derived from interest received on investments or  
13 loans primarily secured by first mortgages or trust deeds on  
14 nontransient residential properties.

15        **Sec. 9.** RCW 82.04.4293 and 1980 c 37 s 13 are each amended to read  
16 as follows:

17        In computing tax there may be deducted from the measure of tax (~~by~~  
18 ~~those engaged in banking, loan, security or other financial~~  
19 ~~businesses,~~) amounts derived from interest paid on all obligations of  
20 the state of Washington, its political subdivisions, and municipal  
21 corporations organized pursuant to the laws thereof.

22        NEW SECTION. **Sec. 10.** A new section is added to chapter 82.04 RCW  
23 to read as follows:

24        This chapter shall not apply to income accrued by an employee  
25 benefit plan. For purposes of this section, "employee benefit plan"  
26 means any plan, trust, or custodial arrangement that is subject to the  
27 Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C.

1 Sec. 1001 et seq., or that is described in sections 125, 401, 403, 408,  
2 457, 501(c)(9), 501(c)(17) through (23) of the Internal Revenue Code of  
3 1986, as amended, or similar plan maintained by state or local  
4 governments, or plans, trusts, or custodial arrangements established to  
5 self-insure benefits required by federal, state, or local law.

6 **Sec. 11.** RCW 82.08.020 and 1985 c 32 s 1 are each amended to read  
7 as follows:

8 (1) There is levied and there shall be collected a tax on each  
9 retail sale in this state equal to six and (~~five~~) two-tenths percent  
10 of the selling price.

11 (2) The tax imposed under this chapter shall apply to successive  
12 retail sales of the same property.

13 (3) The rate provided in this section applies to taxes imposed  
14 under chapter 82.12 RCW as provided in RCW 82.12.020.

15 **Sec. 12.** RCW 82.16.040 and 1961 c 15 s 82.16.040 are each amended  
16 to read as follows:

17 The provisions of this chapter shall not apply to persons engaging  
18 in one or more businesses taxable under this chapter whose total gross  
19 income is less than (~~five~~) two thousand one hundred dollars for a  
20 monthly period or portion thereof. Any person claiming exemption under  
21 this section may be required to file returns even though no tax may be  
22 due. If the total gross income for a taxable monthly period is  
23 (~~five~~) two thousand one hundred dollars, or more, no exemption or  
24 deductions from the gross operating revenue is allowed by this  
25 provision.

26 **Sec. 13.** RCW 82.16.050 and 1989 c 302 s 103 are each amended to  
27 read as follows:

1 In computing tax there may be deducted from the gross income the  
2 following items:

3 (1) Amounts derived by municipally owned or operated public service  
4 businesses, directly from taxes levied for the support or maintenance  
5 thereof: PROVIDED, That this section shall not be construed to exempt  
6 service charges which are spread on the property tax rolls and  
7 collected as taxes;

8 (2) Amounts derived from the sale of commodities to persons in the  
9 same public service business as the seller, for resale as such within  
10 this state. This deduction is allowed only with respect to water  
11 distribution, light and power, gas distribution or other public service  
12 businesses which furnish water, electrical energy, gas or any other  
13 commodity in the performance of public service businesses;

14 (3) Amounts actually paid by a taxpayer to another person taxable  
15 under this chapter as the latter's portion of the consideration due for  
16 services furnished jointly by both, if the total amount has been  
17 credited to and appears in the gross income reported for tax by the  
18 former;

19 (4) The amount of cash discount actually taken by the purchaser or  
20 customer;

21 (5) The amount of credit losses actually sustained by taxpayers  
22 whose regular books of accounts are kept upon an accrual basis;

23 (6) Amounts derived from business which the state is prohibited  
24 from taxing under the Constitution of this state or the Constitution or  
25 laws of the United States;

26 (7) Amounts derived from the distribution of water through an  
27 irrigation system, for irrigation purposes;

28 ~~(8) ((Amounts derived from the transportation of commodities from  
29 points of origin in this state to final destination outside this state,  
30 or from points of origin outside this state to final destination in~~

1 ~~this state, with respect to which the carrier grants to the shipper the~~  
2 ~~privilege of stopping the shipment in transit at some point in this~~  
3 ~~state for the purpose of storing, manufacturing, milling, or other~~  
4 ~~processing, and thereafter forwards the same commodity, or its~~  
5 ~~equivalent, in the same or converted form, under a through freight rate~~  
6 ~~from point of origin to final destination; and amounts derived from the~~  
7 ~~transportation of commodities from points of origin in the state to an~~  
8 ~~export elevator, wharf, dock or ship side on tidewater or navigable~~  
9 ~~tributaries thereto from which such commodities are forwarded, without~~  
10 ~~intervening transportation, by vessel, in their original form, to~~  
11 ~~interstate or foreign destinations: PROVIDED, That no deduction will~~  
12 ~~be allowed when the point of origin and the point of delivery to such~~  
13 ~~an export elevator, wharf, dock, or ship side are located within the~~  
14 ~~corporate limits of the same city or town)) Amounts attributable to the~~  
15 ~~portion of transportation that occurs outside this state of persons or~~  
16 ~~property, or attributable to the portion of transmission of~~  
17 ~~communications that occurs outside this state;~~

18 (9) Amounts derived from the production, sale, or transfer of  
19 electrical energy for resale or consumption outside the state if the  
20 production or generation of such energy is subject to tax under the  
21 manufacturing classification of chapter 82.04 RCW: PROVIDED, That the  
22 exemption set forth in RCW 82.04.310 shall not be applicable to the  
23 generation or production of the electrical energy so produced, sold, or  
24 transferred: AND PROVIDED FURTHER, That no credit has been claimed as  
25 an offset to taxes imposed under RCW 82.04.240;

26 (10) Amounts derived from the distribution of water by a nonprofit  
27 water association and used for capital improvements by that nonprofit  
28 water association;

1 (11) Amounts paid by a sewerage collection business taxable under  
2 RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the  
3 treatment or disposal of sewage.

4 NEW SECTION. **Sec. 14.** (1) The legislature finds that transfers  
5 of ownership of a corporation may be, in some circumstances,  
6 essentially equivalent to the sale of real property held by the  
7 corporation. The legislature further finds that all transfers of  
8 possession or use of real property should be subject to the same excise  
9 tax burdens.

10 (2) The intent of sections 14 through 18 of this act is to apply an  
11 excise tax to transfers of corporate ownership when the transfer of  
12 ownership is comparable to a sale of real property. The excise tax  
13 imposed under sections 14 through 18 of this act is intended to be  
14 equivalent in burden to the excise tax imposed on sales of real estate  
15 under chapter 82.45 RCW.

16 NEW SECTION. **Sec. 15.** Unless the context clearly requires  
17 otherwise, the definitions in this section apply throughout this  
18 chapter.

19 (1) "Ownership transfer" means a transfer or series of transfers in  
20 any consecutive twelve-month period, for a valuable consideration, of  
21 ownership of stock possessing more than fifty percent of the total  
22 combined voting power of the issued and outstanding shares of each  
23 class of stock entitled to vote.

24 (2) "Value of real property assets" means the true and fair value  
25 in money, at the time an ownership transfer is completed, of any estate  
26 or interest in real property located in this state.

1        NEW SECTION.    **Sec. 16.**        (1) An excise tax is imposed on each  
2 ownership transfer of a corporation, to be paid by the corporation, at  
3 the rate of one and twenty-eight one-hundredths percent of the value of  
4 the real property assets of the corporation.

5        (2) Chapter 82.32 RCW applies to the tax imposed in this chapter.  
6 The tax due dates, reporting periods, and return requirements  
7 applicable to chapter 82.04 RCW apply equally to the tax imposed in  
8 this chapter.

9        NEW SECTION.    **Sec. 17.**        The tax imposed in this chapter does not  
10 apply to ownership transfers:

11        (1) When the taxpayer demonstrates by a preponderance of the  
12 evidence that the primary intent of the ownership transfer is for  
13 purposes other than avoidance of the tax imposed in chapter 82.45 RCW.

14        (2) When the value of the real property assets of the corporation  
15 is less than fifty percent of the true and fair value in money of all  
16 assets held by the corporation at the time of the ownership transfer.

17        (3) Of interests that are required to be registered with the  
18 federal securities and exchange commission under the securities act of  
19 1933 or the securities exchange act of 1934.

20        (4) By gift, devise, or inheritance.

21        (5) From one spouse to the other in accordance with the terms of a  
22 decree of divorce or in fulfillment of a property settlement agreement  
23 incident thereto.

24        (6) Solely for the purpose of securing a debt.

25        (7) Upon execution of a judgment.

26        (8) To a corporation that is wholly owned by the transferor and/or  
27 the transferor's spouse or children. If such transferee corporation  
28 voluntarily transfers the ownership interest, or the real property  
29 represented by the ownership interest, or such transferor, spouse, or

1 children voluntarily transfer stock in the transferee corporation or  
2 interest in the transferee partnership capital, as the case may be, to  
3 other than (a) the transferor and/or the transferor's spouse or  
4 children, (b) a trust having the transferor and/or the transferor's  
5 spouse or children as the only beneficiaries at the time of the  
6 transfer to the trust, or (c) a corporation or partnership wholly owned  
7 by the original transferor and/or the transferor's spouse or children,  
8 within five years after the original transfer to which this exemption  
9 applies, excise taxes shall become due and payable on the original  
10 transfer as otherwise provided by law.

11 NEW SECTION. **Sec. 18.** Sections 15 through 17 of this act shall  
12 constitute a new chapter in Title 82 RCW.

13 NEW SECTION. **Sec. 19.** The following acts or parts of acts are  
14 each repealed:

15 (1) RCW 48.32.145 and 1977 ex.s. c 183 s 1 & 1975-'76 2nd ex.s. c  
16 109 s 11;

17 (2) RCW 82.04.315 and 1982 c 95 s 7;

18 (3) RCW 82.04.4287 and 1980 c 37 s 8;

19 (4) RCW 82.08.0276 and 1980 c 37 s 42;

20 (5) RCW 82.08.0311 and 1988 c 68 s 1;

21 (6) RCW 82.12.0263 and 1980 c 37 s 62;

22 (7) RCW 82.12.0271 and 1980 c 37 s 69;

23 (8) RCW 82.12.0272 and 1980 c 37 s 70; and

24 (9) RCW 82.12.0311 and 1988 c 68 s 2.

25 NEW SECTION. **Sec. 20.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and shall take

1 effect July 1, 1991, except for sections 14 through 18 of this act  
2 which shall take effect immediately.