
SENATE BILL 6482

State of Washington 62nd Legislature 2012 Regular Session

By Senators Nelson, Conway, Kohl-Welles, Chase, McAuliffe, and Keiser

Read first time 01/25/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to assessing a two percent tax on millionaires to
2 fund the paramount duty trust fund and reduce class sizes in grades
3 kindergarten through fourth; adding a new chapter to Title 82 RCW; and
4 prescribing penalties.

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

6 **PART I**
7 **GENERAL PROVISIONS**

8 NEW SECTION. **Sec. 101.** INTENT. It is the intent of the
9 legislature to insure that the top one percent of citizens in our state
10 contribute to sustain the paramount duty of the state to educate our
11 children by requiring these wealthiest, those who have benefited
12 greatly in this great recession, to pay their fair share through a two
13 percent marginal tax on annual income exceeding one million dollars.

14 **PART II**
15 **ESTABLISHING THE PARAMOUNT DUTY TRUST FUND FUNDED**
16 **BY AN EXCISE TAX ON INCOMES IN EXCESS OF ONE MILLION DOLLARS**

1 (c) Is not domiciled in this state, but maintains a permanent place
2 of abode in this state and spends in the aggregate more than one
3 hundred eighty-three days of the tax year in this state unless the
4 individual establishes to the satisfaction of the department that the
5 individual is in the state only for temporary or transitory purposes;
6 or

7 (d) Claims this state as the individual's tax home for federal
8 income tax purposes.

9 (5) "S corporation" means an S corporation as defined in section
10 1361 of the internal revenue code.

11 (6) "Tax" means the tax imposed in this chapter, unless the context
12 requires a different meaning.

13 (7) "Taxable income" means adjusted gross income as modified under
14 sections 502 and 601 of this act.

15 (8) "Taxable year" means the taxpayer's taxable year as defined
16 under the internal revenue code.

17 (9) "Taxpayer" means a person receiving income subject to tax under
18 this chapter.

19 NEW SECTION. **Sec. 302.** DEFINITION OF TERMS GENERALLY. Except as
20 provided in section 301 of this act and RCW 1.12.080, any term used in
21 this chapter has the same meaning as when used in a comparable context
22 in the internal revenue code.

23 **PART IV**

24 **DETERMINATION OF EXCISE TAX**

25 NEW SECTION. **Sec. 401.** EXCISE TAX IMPOSED--RATES. An excise tax
26 is imposed on the receipt of adjusted gross income in excess of one
27 million dollars by residents or qualifying nonresidents deriving income
28 from sources within the state. The rate of tax is two percent
29 multiplied by the amount of adjusted gross income in excess of one
30 million dollars. An excise tax is not imposed on the assets held by a
31 person resulting from income after its receipt, but only upon the
32 receipt itself.

33 NEW SECTION. **Sec. 402.** CREDIT FOR INCOME TAXES DUE ANOTHER
34 JURISDICTION. (1) A resident individual is allowed a credit against

1 the tax imposed under this chapter for the amount of any income tax
2 imposed by another state or foreign country, or political subdivision
3 of the state or foreign country, on income taxed under this chapter,
4 subject to the following conditions, which must be imposed separately
5 with respect to each taxing jurisdiction:

6 (a) The credit is allowed only for taxes imposed by the other
7 jurisdiction on net income from sources within that jurisdiction; and

8 (b) The amount of the credit shall not exceed the smaller of:

9 (i) The amount of tax paid to the other jurisdiction on net income
10 from sources within the other jurisdiction; or

11 (ii) The amount of tax due under this chapter before application of
12 credits allowable by this chapter, multiplied by a fraction. The
13 numerator of the fraction is the amount of the taxpayer's adjusted
14 gross income subject to tax in the other jurisdiction. The denominator
15 of the fraction is the taxpayer's total adjusted gross income as
16 modified by this chapter. The fraction may never be greater than one.

17 (2) If, in lieu of a credit similar to the credit allowed under
18 subsection (1) of this section, the laws of the other taxing
19 jurisdiction contain a provision exempting a resident of this state
20 from liability for the payment of income taxes on income earned for
21 personal services performed in such jurisdiction, then the director is
22 authorized to enter into a reciprocal agreement with such jurisdiction
23 providing a similar tax exemption on income earned for personal
24 services performed in this state.

25 (3) The amount of the tax credit received by any taxpayer under
26 this section may not exceed the total amount of tax due, and there may
27 be no carryback or carryforward of any unused excess credits.

28 NEW SECTION. **Sec. 403.** DUAL RESIDENCE. If an individual is
29 regarded as a resident both of this state and another jurisdiction for
30 state personal income tax purposes, the department must reduce the tax
31 on that portion of the taxpayer's income which is subjected to tax in
32 both jurisdictions solely by virtue of dual residence, if the other
33 taxing jurisdiction allows a similar reduction. The reduction must
34 equal the lower of the two taxes applicable to the income taxed twice,
35 multiplied by a fraction. The numerator of the fraction is the tax
36 imposed by this state on the income taxed twice. The denominator of

1 the fraction is the tax imposed by both jurisdictions on the income
2 taxed twice. The fraction must never be greater than one.

3 NEW SECTION. **Sec. 404.** PARTNERSHIPS AND S CORPORATIONS. (1)
4 Partnerships are not subject to tax under this chapter. Partners are
5 subject to tax under this chapter in their separate or individual
6 capacities on their pro rata share.

7 (2) S corporations are not subject to tax under this chapter.
8 Shareholders of S corporations are subject to tax under this chapter in
9 their separate or individual capacities.

10 (3) As used in this section:

11 (a) "S corporation income" includes both distributed and
12 undistributed federal taxable income of the S corporation.

13 (b) "Pro rata share" means pro rata share as determined under
14 section 1366(a) of the internal revenue code.

15 **PART V**

16 **TAXABLE INCOME MODIFICATION**

17 NEW SECTION. **Sec. 501.** ABSOLUTE TAX THRESHOLD. It is the intent
18 of this act that in no event may excise tax be imposed upon adjusted
19 gross income below one million dollars. No provision of this chapter
20 may allow the imposition of tax upon adjusted gross income below one
21 million dollars.

22 NEW SECTION. **Sec. 502.** FEDERAL OBLIGATIONS. From adjusted gross
23 income, deduct, to the extent included in adjusted gross income, income
24 derived from obligations of the United States which this state is
25 prohibited by federal law from subjecting to a net income tax.

26 **PART VI**

27 **DIVISION OF INCOME FOR NONRESIDENTS**

28 NEW SECTION. **Sec. 601.** APPORTIONMENT AND ALLOCATION OF INCOME.
29 (1) For resident individuals, all income must be apportioned and
30 allocated to this state.

31 (2) For nonresident individuals, income derived from sources within
32 this state must be apportioned and allocated to this state.

1 (3) For purposes of this chapter:

2 (a) The adjusted gross income of a nonresident derived from sources
3 within this state is the net amount of items of income, gain, loss, and
4 deduction of the nonresident's adjusted gross income that are derived
5 from or connected with sources in this state including any distributive
6 share of partnership income and deductions.

7 (b) Items of income, gain, loss, and deduction derived from or
8 connected with sources within this state are those items attributable
9 to the ownership or disposition of any interest in real or tangible
10 personal property in this state, and a business, trade, profession, or
11 occupation carried on within this state. The department must issue
12 rules to provide consistency of this section with other excise tax
13 provisions.

14 (c) Deduction with respect to expenses, capital losses, and net
15 operating losses must be based solely on income, gains, losses, and
16 deductions derived from or connected with sources in this state but
17 must otherwise be determined in the same manner as the corresponding
18 federal deduction except as provided in this chapter.

19 (d) Income from intangible personal property, including annuities,
20 dividends, interest, and gains from the disposition of intangible
21 personal property, constitutes income derived from sources within the
22 state of Washington only to the extent that such income is from
23 property employed in a business, trade, profession, or occupation
24 carried on within this state. However, distributed and undistributed
25 income of an electing S corporation for federal tax purposes derived
26 from or connected with sources within this state is income derived from
27 sources within this state for a nonresident shareholder. A net
28 operating loss of such corporation does constitute a loss or deduction
29 connected with sources within this state for a nonresident shareholder.

30 (e) Compensation paid by the United States for service in the armed
31 forces of the United States performed in this state by a nonresident
32 does not constitute income derived from sources within this state.

33 (f) If a business, trade, profession, or occupation is carried on
34 partly within and partly without this state, the determination of net
35 income derived or connected with sources within this state as provided
36 in this section must be made by apportionment and allocation of chapter
37 82.56 RCW.

1 **PART VII**

2 **ADMINISTRATIVE PROVISIONS**

3 NEW SECTION. **Sec. 701.** METHOD OF ACCOUNTING. (1) A taxpayer's
4 method of accounting for purposes of the tax imposed under this chapter
5 is the same as the taxpayer's method of accounting for federal income
6 tax purposes. If no method of accounting has been regularly used by a
7 taxpayer for federal income tax purposes or if the method used does not
8 clearly reflect income, tax due under this chapter is computed by a
9 method of accounting which in the opinion of the department fairly
10 reflects income.

11 (2) If a person's method of accounting is changed for federal
12 income tax purposes, it must be similarly changed for purposes of this
13 chapter.

14 NEW SECTION. **Sec. 702.** PERSONS REQUIRED TO FILE RETURNS. (1)
15 Only taxpayers with adjusted gross income of one million dollars or
16 more are required to file a tax return with the department. The
17 department must utilize such taxpayer's federal tax returns as a
18 primary tool for obtaining taxpayers' information. The department may
19 prescribe a simple supplement of no more than two pages for computing
20 the excise tax owed under this chapter. Each person required to file
21 a return under this chapter must, without assessment, notice, or
22 demand, pay any tax due thereon to the department on or before the date
23 fixed for the filing of the return.

24 (2) The department may by rule require that certain taxpayers file,
25 on forms prescribed by the department, informational returns for any
26 period. Each person required by rule to file an informational return
27 must, without assessment, notice, or demand, pay any tax due thereon to
28 the department on or before the date fixed for the filing of the
29 informational return.

30 (3) If an adjustment to a taxpayer's federal return is made by the
31 taxpayer or the internal revenue service, the taxpayer must, within
32 ninety days of the final determination of the adjustment by the
33 internal revenue service or within thirty days of the filing of a
34 federal return adjusted by the taxpayer, file with the department on
35 forms prescribed by the department a corrected return reflecting the
36 adjustments as finally determined. The taxpayer must pay any
37 additional tax due resulting from the finally determined internal

1 revenue service adjustment or a taxpayer adjustment without notice and
2 assessment. Notwithstanding any provision of this chapter or any other
3 title to the contrary, the period of limitation for the collection of
4 the additional tax, interest, and penalty due as a result of an
5 adjustment by the taxpayer or a finally determined internal revenue
6 service adjustment must begin at the later of thirty days following the
7 final determination of the adjustment or the date of the filing of the
8 corrected return.

9 NEW SECTION. **Sec. 703.** DUE DATE FOR FILING A RETURN--EXTENSIONS--
10 INTEREST AND PENALTIES. The due date of a return required to be filed
11 with the department is the due date of the federal income tax return or
12 informational return for federal income tax purposes. The department
13 must have the authority to grant extensions of times by which returns
14 required to be filed by this chapter may be submitted. The department
15 must also have the authority to grant extensions of time to pay tax
16 with regard to taxes imposed by this chapter. Interest at the rate as
17 specified in RCW 82.32.050 accrues during any extension period and the
18 interest and penalty provisions of chapter 82.32 RCW apply to late
19 payments and deficiencies. Notwithstanding the limitation of RCW
20 82.32.090, in the case of the late filing of an informational return,
21 there is imposed a penalty the amount of which is established by the
22 department by rule. The penalty may not exceed fifty dollars per month
23 for a maximum of ten months. RCW 82.32.105 applies to this section.

24 NEW SECTION. **Sec. 704.** JOINT RETURN. (1) If the federal income
25 tax liabilities of both spouses are determined on a joint federal
26 return for the taxable year, they must file a joint return under this
27 chapter unless one spouse is a resident and the other is a nonresident.

28 (2) If neither spouse is required to file a federal income tax
29 return for the taxable year, a joint return may be filed under this
30 chapter under the same conditions under which a joint return may be
31 filed for purposes of the federal income tax.

32 (3) If one spouse is a resident and the other is a nonresident,
33 they must file separate returns under this chapter, unless they elect
34 to determine their tax liabilities under this chapter on a joint return
35 as if they were both residents, and:

1 (a) Their federal tax liability for the taxable year was determined
2 on a joint federal tax return; or

3 (b) Neither spouse has filed a federal income tax return for the
4 taxable year and they would be permitted to file a joint federal tax
5 return for the taxable year.

6 (4) In any case in which a joint return is filed under this
7 section, the liability of the spouses is joint and several, unless the
8 spouse is relieved of liability under section 6013 of the internal
9 revenue code.

10 (5) The department must take action and adopt rules, forms, and
11 procedures to implement this act consistently with RCW 26.60.010 and
12 26.60.015, notwithstanding any term or provision of this section or
13 act, provided there is full compliance with section 501 of this act.

14 NEW SECTION. **Sec. 705.** RECORDS--RETURNS. (1) Every taxpayer with
15 adjusted gross income of one million dollars or more and all others
16 required to deduct and withhold the tax imposed under this chapter must
17 keep records, render statements, make returns, file reports, and
18 perform other acts as the department requires by rule. Each return
19 must be made under penalty of perjury and on forms prescribed by the
20 department. The department may require other statements and reports be
21 made under penalty of perjury and on forms prescribed by the
22 department. The department may require any taxpayer and any person
23 required to deduct and withhold the tax imposed under this chapter to
24 furnish to the department a correct copy of any return or document
25 which the taxpayer has filed with the internal revenue service or
26 received from the internal revenue service.

27 (2) All books and records and other papers and documents required
28 to be kept under this chapter are subject to inspection by the
29 department at all times during business hours of the day.

30 NEW SECTION. **Sec. 706.** PROVISIONS OF INTERNAL REVENUE CODE
31 CONTROL. (1) To the extent possible without being inconsistent with
32 this chapter, all of the provisions of the internal revenue code
33 relating to the following subjects apply to the taxes imposed under
34 this chapter:

35 (a) Time of payment of tax deducted and withheld under sections 701
36 through 705 of this act and this section;

1 (b) Liability of transferees;

2 (c) Time and manner of making returns, extensions of time for
3 filing returns, verification of returns, and the time when a return is
4 deemed filed.

5 (2) The department by rule may provide modifications and exceptions
6 to the provisions listed in subsection (1) of this section, if
7 reasonably necessary to facilitate the prompt, efficient, and equitable
8 collection of tax under this chapter.

9 NEW SECTION. **Sec. 707.** REFUNDS OF OVERPAYMENTS--OTHER
10 ADMINISTRATIVE PROVISIONS. (1) The department must refund all taxes
11 improperly paid or collected.

12 (2) The following sections apply to the administration of taxes
13 imposed under this chapter: RCW 82.32.020, 82.32.050, 82.32.060,
14 82.32.070, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.120,
15 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.180,
16 82.32.190, 82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235,
17 82.32.237, 82.32.240, 82.32.245, 82.32.265, 82.32.290, 82.32.300,
18 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, and
19 82.32.380.

20 NEW SECTION. **Sec. 708.** RULES. The department may adopt rules
21 under chapter 34.05 RCW for the administration and enforcement of this
22 chapter, including a phase-in for fiscal year taxpayers. The rules, to
23 the extent possible without being inconsistent with this chapter, must
24 follow the internal revenue code and the regulations and rulings of the
25 United States treasury department with respect to the federal income
26 tax. The department may adopt as a part of these rules any portions of
27 the internal revenue code and treasury department regulations and
28 rulings, in whole or in part.

29 NEW SECTION. **Sec. 709.** APPEALS. The board of tax appeals has
30 jurisdiction over appeals relating to tax deficiencies and refunds,
31 including penalties and interest, pursuant to this chapter. The
32 taxpayer may elect a formal or informal hearing pursuant to RCW
33 82.03.140.

1 **PART VIII**
2 **MISCELLANEOUS**

3 NEW SECTION. **Sec. 801.** SEVERABILITY. If any provision of this
4 act or its application to any person or circumstance is held invalid,
5 the remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 802.** APPLICATION. This chapter applies to
8 taxes collectible in 2013 and thereafter.

9 NEW SECTION. **Sec. 803.** The excise tax rate in section 401 of this
10 act may not be increased for any income level without a majority vote
11 of the legislature and submission of the changes to the people for
12 approval.

13 NEW SECTION. **Sec. 804.** CODIFICATION. Sections 101 through 803 of
14 this act constitute a new chapter in Title 82 RCW.

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