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**HOUSE BILL 1778**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Doglio, Entenman, Jinkins, Ormsby, Pollet, Frame, Robinson, and Macri

AN ACT Relating to funding the working families tax exemption by imposing a surcharge on publicly traded companies providing excessive executive compensation; amending RCW 82.08.0206; adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 82.08 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that the wages of workers continue to stagnate while chief executive officer (CEO) pay continues to grow rapidly. The pay for top executives is often hundreds, even thousands, of times that of the median worker at their companies. One study found that CEO pay grew nine hundred forty-three percent over thirty-five years, vastly outpacing growth in the cost of living, the productivity of the economy, and the stock market. In the past decade, average pay for CEOs in the Pacific Northwest has climbed five times faster than it has for workers. This pay gap contributes to the increasing income inequality in the United States and further consolidation of wealth with the top one percent. It is the intent of the legislature to impose a surcharge on corporations with excessive CEO pay and provide funding for the working families tax exemption provided in RCW 82.08.0206.

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

(1) Beginning January 1, 2020, in addition to the taxes imposed under this chapter, a surcharge is imposed on any person with an executive pay ratio of at least fifty to one in the previous calendar year. The surcharge will apply to the tax otherwise payable under this chapter after credits under RCW 82.04.440 have been applied. The surcharge is equal to:

(a) Ten percent if the executive pay ratio is at least fifty to one but less than one hundred fifty to one; and

(b) Twenty-five percent if the pay ratio is one hundred fifty to one or more.

(2) The surcharge applies to taxes due for the calendar year following the year in which the executive pay ratio under subsection (1) of this section occurred. If the executive pay ratio of a publicly traded company changes during the course of a calendar year, adjustments to the surcharge resulting from the change take effect January 1st of the calendar year following the year in which the change occurred.

(3) If the executive pay ratio as reported to the United States securities and exchange commission, or its successor agency, for the previous calendar year is not disclosed by the taxpayer to the department, the rate of surcharge imposed is twenty-five percent for the applicable calendar years.

(4) Companies not publicly traded, but listed as a subsidiary in the filings of the parent company with the United States securities and exchange commission, are subject to the surcharge if the parent is subject to the surcharge.

(5) All revenues collected under this subsection must be deposited into the working families tax exemption account created in section 5 of this act.

(6) For the purposes of this section, "executive pay ratio" means the ratio of the annual compensation of the chief executive officer compared to the median annual compensation of all other employees that is required to be disclosed pursuant to section 953 of the Dodd-Frank wall street reform and consumer protection act (P.L. 111-203) and reported to the United States securities and exchange commission, or its successor agency.

NEW SECTION. **Sec.**  A new section is added to chapter 82.16 RCW to read as follows:

(1) Beginning January 1, 2020, in addition to the taxes imposed under this chapter, a surcharge is imposed on any person with an executive pay ratio of at least fifty to one in the previous calendar year. The surcharge will apply to the tax otherwise payable under this chapter after credits under RCW 82.04.440 have been applied. The surcharge is equal to:

(a) Ten percent if the executive pay ratio is at least fifty to one but less than one hundred fifty to one; and

(b) Twenty-five percent if the pay ratio is one hundred fifty to one or more.

(2) The surcharge applies to taxes due for the calendar year following the year in which the executive pay ratio under subsection (1) of this section occurred. If the executive pay ratio of a publicly traded company changes during the course of a calendar year, adjustments to the surcharge resulting from the change take effect January 1st of the calendar year following the year in which the change occurred.

(3) If the executive pay ratio as reported to the United States securities and exchange commission, or its successor agency, for the previous calendar year is not disclosed by the taxpayer to the department, the rate of surcharge imposed is twenty-five percent for the applicable calendar years.

(4) Companies not publicly traded, but listed as a subsidiary in the filings of the parent company with the United States securities and exchange commission, are subject to the surcharge if the parent is subject to the surcharge.

(5) All revenues collected under this subsection must be deposited into the working families tax exemption account created in section 5 of this act.

(6) For the purposes of this section, "executive pay ratio" means the ratio of the annual compensation of the chief executive officer compared to the median annual compensation of all other employees that is required to be disclosed pursuant to section 953 of the Dodd-Frank wall street reform and consumer protection act (P.L. 111-203) and reported to the United States securities and exchange commission, or its successor agency.

NEW SECTION. **Sec.**  By December 1, 2020, and in compliance with RCW 43.01.036, the department of revenue and the employment security department must submit a report to the legislature regarding the feasibility of extending this act to taxpayers not currently required to disclose executive pay ratio under the Dodd-Frank wall street reform and consumer protection act (P.L. 111-203).

**Sec.**  RCW 82.08.0206 and 2008 c 325 s 2 are each amended to read as follows:

(1) A working families' tax exemption, in the form of a remittance tax due under this chapter and chapter 82.12 RCW, is provided to eligible low-income persons for sales and use taxes paid under this chapter and chapter 82.12 RCW after ((~~January 1, 2008~~)) December 31, 2019.

(2) For purposes of the exemption in this section, an eligible low-income person is:

(a) An individual, or an individual and that individual's spouse if they file a federal joint income tax return;

(b) ((~~[An individual who]~~)) An individual who is eligible for, and ((~~is granted~~)) has claimed, the credit provided in Title 26 U.S.C. Sec. 32; and

(c) ((~~[An individual who]~~)) An individual who properly files a federal income tax return as a Washington resident, and has been a resident of the state of Washington more than one hundred eighty days of the year for which the exemption is claimed.

(3) ((~~For remittances made in 2009 and 2010, the working families' tax exemption for the prior year is a retail sales tax exemption equal to the greater of five percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or twenty-five dollars. For 2011 and thereafter,~~)) The working families' tax exemption for the prior year is equal to the greater of ten percent of the credit granted as a result of Title 26 U.S.C. Sec. 32 in the most recent year for which data is available or fifty dollars. However, remittances may be issued based on the amount of credit claimed by an eligible low-income person under Title 26 U.S.C. Sec. 32 on a federal income tax return for the prior calendar year, and the employment security department may subsequently verify the amount of such credit granted by the internal revenue service.

(4) For any fiscal period, the working families' tax exemption authorized under this section shall be approved by the legislature in the state omnibus appropriations act before persons may claim the exemption during the fiscal period.

(5) The working families' tax exemption ((~~shall~~)) must be administered as provided in this subsection.

(a)(i) An eligible low-income person claiming an exemption under this section must pay the tax imposed under chapters 82.08, 82.12, and 82.14 RCW in the year for which the exemption is claimed. The eligible low-income person may then apply to the department for the remittance as calculated under subsection (3) of this section.

(ii) A person may not claim an exemption on behalf of a deceased individual.

(iii) No individual may claim an exemption under this section for any year in a disallowance period under 26 U.S.C. Sec. 32(k)(1) or for any year in which the individual is ineligible to claim a credit under 26 U.S.C. Sec. 32 by reason of 26 U.S.C. Sec. 32(k)(2).

(b) Application ((~~shall~~)) must be made to the employment security department in a form and manner determined by the department, but the employment security department must provide alternative filing methods for applicants who do not have access to electronic filing.

(c) Application for the exemption remittance under this section must be made in the year following the year for which the federal return was filed, but in no case may any remittance be provided for any period before January 1, ((~~2008~~)) 2020. The department may use the best available data to process the exemption remittance. The department ((~~shall~~)) must begin accepting applications October 1, ((~~2009~~)) 2021.

(d) The department ((~~shall~~)) must review the application and determine eligibility for the working families' tax exemption based on information provided by the applicant and through audit and other administrative records, including, when it deems it necessary, verification through internal revenue service data.

(e) The employment security department ((~~shall~~)) must remit the exempted amounts to eligible low-income persons who submitted applications. Remittances may be made by electronic funds transfer or other means.

(f) The employment security department may, in conjunction with other agencies or organizations, design and implement a public information campaign to inform potentially eligible persons of the existence of and requirements for this exemption.

(g) The employment security department may contact persons who appear to be eligible low-income persons as a result of information received from the internal revenue service under such conditions and requirements as the internal revenue service may by law require.

(6) The provisions of chapter ((~~82.32~~)) 50.12 RCW apply to the exemption in this section.

(7) The employment security department may adopt rules necessary to implement this section.

(8) The employment security department ((~~shall~~)) must limit its costs for the exemption program to the initial start-up costs to implement the program. The state omnibus appropriations act ((~~shall~~)) must specify funding to be used for the ongoing administrative costs of the program. These ongoing administrative costs include, but are not limited to, costs for: The processing of internet and mail applications, verification of application claims, compliance and collections, additional full-time employees at the employment security department's call center, processing warrants, updating printed materials and web information, media advertising, and support and maintenance of computer systems.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

The working families tax exemption account is created in the state treasury. All receipts from sections 2 and 3 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for funding the working families tax exemption created in RCW 82.08.0206.

NEW SECTION. **Sec.**  This act takes effect January 1, 2020.

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