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**HOUSE BILL 2108**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Fey, Barkis, Jacobsen, Robertson, and Sutherland

AN ACT Relating to forgiving the first two payments due under the sales and use tax deferral for historic auto museums in response to operational delays caused by the COVID-19 pandemic; amending RCW 82.32.580; creating a new section; making an appropriation; and providing an expiration date.

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

**Sec.**  RCW 82.32.580 and 2017 3rd sp.s. c 37 s 902 are each amended to read as follows:

(1) The governing board of a nonprofit organization, corporation, or association may apply for deferral of taxes on an eligible project. Application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the project, estimated or actual costs of the project, time schedules for completion and operation of the project, and other information required by the department. The department must rule on the application within sixty days. All applications for the tax deferral under this section must be received no later than December 31, 2008.

(2) The department must issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible project.

(3)(a) Deferred tax payments due on December 31st of calendar years 2022 and 2023 need not be repaid. Payments must resume in calendar year 2024 and are due by December 31st of each calendar year thereafter, as provided in (b) of this subsection.

(b) The nonprofit organization, corporation, or association must begin paying the deferred taxes in the ((~~tenth~~)) 12th year after the date certified by the department as the date on which the eligible project is operationally complete. The first payment is due on December 31st of the ((~~tenth~~)) 12th calendar year after such certified date, with subsequent annual payments due on December 31st of the following ((~~nine~~)) seven years. Each payment must equal ten percent of the deferred tax.

(4) The department may authorize an accelerated repayment schedule upon request of the nonprofit organization, corporation, or association.

(5) Except as provided in subsection (6) of this section, interest may not be charged on any taxes deferred under this section for the period of deferral. The debt for deferred taxes is not extinguished by insolvency or other failure of the nonprofit organization, corporation, or association.

(6) If the project is not operationally complete within five calendar years from issuance of the tax deferral or if at any time the department finds that the project is not eligible for tax deferral under this section, the amount of deferred taxes outstanding for the project is immediately due and payable. If deferred taxes must be repaid under this subsection, the department must assess interest, but not penalties, on amounts due under this subsection. Interest must be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date of deferral, and accrues until the deferred taxes due are repaid.

(7) Applications and any other information received by the department of revenue under this section are not confidential under RCW 82.32.330. This chapter applies to the administration of this section.

(8) This section applies to taxable eligible project activity that occurs on or after July 1, 2007.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Eligible project" means a project that is used primarily for a historic automobile museum.

(b) "Historic automobile museum" means a facility owned and operated by a nonprofit organization, corporation, or association that is used to maintain and exhibit to the public a collection of at least five hundred motor vehicles.

(c) "Nonprofit organization, corporation, or association" means an organization, corporation, or association exempt from tax under section 501(c) (3), (4), or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c) (3), (4), or (10)).

(d) "Project" means the construction of new structures, the acquisition and installation of fixtures that are permanently affixed to and become a physical part of those structures, and site preparation. For purposes of this subsection, structures do not include parking facilities used for motor vehicles that are not on display or part of the museum collection.

(e) "Site preparation" includes soil testing, site clearing and grading, demolition, or any other related activities that are initiated before construction. Site preparation does not include landscaping services or landscaping materials.

(10) This section expires July 1, 2032.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 1, chapter . . ., Laws of 2022 (section 1 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals and to accomplish a general purpose as indicated in RCW 82.32.808(2) (e) and (f).

(3) It is the legislature's specific public policy objective to increase the fiscal stability of historic automobile museums in Washington state and, thereby, strengthen the economic vitality of the communities in which the museums are located.

(4) To measure the effectiveness of the tax preference in section 1, chapter . . ., Laws of 2022 (section 1 of this act) in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must evaluate this tax preference. In evaluating the tax preference, the joint legislative audit and review committee may refer to data provided to the department of revenue.

NEW SECTION. **Sec.**  The sum of $120,000 dollars, or as much thereof as may be necessary, is appropriated for the fiscal year ending June 30, 2022, from the general fund to the department of revenue for the purposes of making distributions to the county that would otherwise receive deferred sales tax payments if not for section 1 of this act.

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