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HOUSE BILL 1165

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Sherstad, Dickerson, Van Luven, L. Thomas and Mason;  
by request of Department of Revenue

Read first time 01/16/95. Referred to Committee on Finance.

1 AN ACT Relating to technical correction of excise and property tax  
2 statutes; amending RCW 82.04.030, 82.32.145, 82.36.310, 82.48.010,  
3 84.40.185, 9.41.135, and 82.32.320; reenacting and amending RCW  
4 82.32.030; creating a new section; repealing 1994 sp.s. c 7 s 445; and  
5 declaring an emergency.

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

7 **Sec. 1.** RCW 82.04.030 and 1963 ex.s. c 28 s 1 are each amended to  
8 read as follows:

9 "Person" or "company", herein used interchangeably, means any  
10 individual, receiver, administrator, executor, assignee, trustee in  
11 bankruptcy, trust, estate, firm, copartnership, joint venture, club,  
12 company, joint stock company, business trust, municipal corporation,  
13 political subdivision of the state of Washington, corporation, limited  
14 liability company, association, society, or any group of individuals  
15 acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or  
16 otherwise and the United States or any instrumentality thereof.

17 **Sec. 2.** RCW 82.32.145 and 1987 c 245 s 1 are each amended to read  
18 as follows:

1 (1) Upon termination, dissolution, or abandonment of a corporate or  
2 limited liability company business, any officer, member, manager, or  
3 other person having control or supervision of retail sales tax funds  
4 collected and held in trust under RCW 82.08.050, or who is charged with  
5 the responsibility for the filing of returns or the payment of retail  
6 sales tax funds collected and held in trust under RCW 82.08.050, shall  
7 be personally liable for any unpaid taxes and interest and penalties on  
8 those taxes, if such officer or other person wilfully fails to pay or  
9 to cause to be paid any taxes due from the corporation pursuant to  
10 chapter 82.08 RCW. For the purposes of this section, any retail sales  
11 taxes that have been paid but not collected shall be deductible from  
12 the retail sales taxes collected but not paid.

13 For purposes of this subsection "wilfully fails to pay or to cause  
14 to be paid" means that the failure was the result of an intentional,  
15 conscious, and voluntary course of action.

16 (2) The officer, member or manager, or other person shall be liable  
17 only for taxes collected which became due during the period he or she  
18 had the control, supervision, responsibility, or duty to act for the  
19 corporation described in subsection (1) of this section, plus interest  
20 and penalties on those taxes.

21 (3) Persons liable under subsection (1) of this section are exempt  
22 from liability in situations where nonpayment of the retail sales tax  
23 funds held in trust is due to reasons beyond their control as  
24 determined by the department by rule.

25 (4) Any person having been issued a notice of assessment under this  
26 section is entitled to the appeal procedures under RCW 82.32.160,  
27 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

28 (5) This section applies only in situations where the department  
29 has determined that there is no reasonable means of collecting the  
30 retail sales tax funds held in trust directly from the corporation.

31 (6) This section does not relieve the corporation or limited  
32 liability company of other tax liabilities or otherwise impair other  
33 tax collection remedies afforded by law.

34 (7) Collection authority and procedures prescribed in this chapter  
35 apply to collections under this section.

36 **Sec. 3.** RCW 82.36.310 and 1965 ex.s. c 79 s 13 are each amended to  
37 read as follows:

1 Any person claiming a refund for motor vehicle fuel used or  
2 exported as in this chapter provided shall not be entitled to receive  
3 such refund until he presents to the director a claim upon forms to be  
4 provided by the director with such information as the director shall  
5 require, which claim to be valid shall in all cases be accompanied by  
6 the original invoice or invoices issued to the claimant at the time of  
7 the purchases of the motor vehicle fuel, approved as to invoice form by  
8 the director: PROVIDED, That in the event of the loss or destruction  
9 of the original invoice or invoices, the person claiming a refund may  
10 submit in lieu thereof a duplicate copy of such invoice certified by  
11 the vendor, but no payment of refund based upon such duplicate invoice  
12 shall be made until after expiration of such statutory period specified  
13 in RCW 82.36.330 for filing of refund applications.

14 Any person claiming refund by reason of exportation of motor  
15 vehicle fuel shall in addition to the invoices required furnish to the  
16 director the export certificate therefor, and the signature on the  
17 exportation certificate shall be certified by a notary public. In all  
18 cases the claim shall be signed by the person claiming the refund,  
19 ((or)) if it is a corporation, by some proper officer ((thereof)) of  
20 the corporation, or if it is a limited liability company, by some  
21 proper manager or member of the limited liability company.

22 **Sec. 4.** RCW 82.48.010 and 1987 c 220 s 5 are each amended to read  
23 as follows:

24 For the purposes of this chapter, unless otherwise required by the  
25 context:

26 (1) "Aircraft" means any weight-carrying device or structure for  
27 navigation of the air which is designed to be supported by the air;

28 (2) "Secretary" means the secretary of transportation;

29 (3) "Person" includes a firm, partnership, limited liability  
30 company, or corporation;

31 (4) "Small multi-engine fixed wing" means any piston-driven multi-  
32 engine fixed wing aircraft with a maximum gross weight as listed by the  
33 manufacturer of less than seventy-five hundred pounds; and

34 (5) "Large multi-engine fixed wing" means any piston-driven multi-  
35 engine fixed wing aircraft with a maximum gross weight as listed by the  
36 manufacturer of seventy-five hundred pounds or more.

1       **Sec. 5.** RCW 84.40.185 and 1967 ex.s. c 149 s 41 are each amended  
2 to read as follows:

3       Every individual, corporation, limited liability company,  
4 association, partnership, trust, or estate shall list all personal  
5 property in his or its ownership, possession, or control which is  
6 subject to taxation pursuant to the provisions of this title. Such  
7 listing shall be made and delivered in accordance with the provisions  
8 of this (~~(1967 amendatory act)~~) chapter.

9       **Sec. 6.** RCW 9.41.135 and 1994 sp.s. c 7 s 418 are each amended to  
10 read as follows:

11       (1) At least once every twelve months, the department of licensing  
12 shall obtain a list of dealers licensed under 18 U.S.C. Sec. 923(a)  
13 with business premises in the state of Washington from the United  
14 States bureau of alcohol, tobacco, and firearms. The department of  
15 licensing shall verify that all dealers on the list provided by the  
16 bureau of alcohol, tobacco, and firearms are licensed and registered as  
17 required by RCW 9.41.100.

18       (2) At least once every twelve months, the department of licensing  
19 shall obtain from the department of revenue and the department of  
20 revenue shall transmit to the department of licensing a list of dealers  
21 registered with the department of revenue whose gross proceeds of sales  
22 are below (~~(the reporting threshold provided in RCW 82.04.300)~~) twelve  
23 thousand dollars per year, and a list of dealers whose names and  
24 addresses were forwarded to the department of revenue by the department  
25 of licensing under RCW 9.41.110, who failed to register with the  
26 department of revenue as required by RCW 9.41.100.

27       (3) At least once every twelve months, the department of licensing  
28 shall notify the bureau of alcohol, tobacco, and firearms of all  
29 dealers licensed under 18 U.S.C. Sec. 923(a) with business premises in  
30 the state of Washington who have not complied with the licensing or  
31 registration requirements of RCW 9.41.100, or whose gross proceeds of  
32 sales are below (~~(the reporting threshold provided in RCW 82.04.300)~~)  
33 twelve thousand dollars per year. In notifying the bureau of alcohol,  
34 tobacco, and firearms, the department of licensing shall not specify  
35 whether a particular dealer has failed to comply with licensing  
36 requirements, has failed to comply with registration requirements, or  
37 has gross proceeds of sales below the reporting threshold.

1       **Sec. 7.** RCW 82.32.030 and 1994 sp.s. c 7 s 446 and 1994 sp.s. c 2  
2 s 2 are each reenacted and amended to read as follows:

3       (1) Except as provided in subsection (2) of this section, if any  
4 person engages in any business or performs any act upon which a tax is  
5 imposed by the preceding chapters, he or she shall, under such rules as  
6 the department of revenue shall prescribe, apply for and obtain from  
7 the department a registration certificate. Such registration  
8 certificate shall be personal and nontransferable and shall be valid as  
9 long as the taxpayer continues in business and pays the tax accrued to  
10 the state. In case business is transacted at two or more separate  
11 places by one taxpayer, a separate registration certificate for each  
12 place at which business is transacted with the public shall be  
13 required. Each certificate shall be numbered and shall show the name,  
14 residence, and place and character of business of the taxpayer and such  
15 other information as the department of revenue deems necessary and  
16 shall be posted in a conspicuous place at the place of business for  
17 which it is issued. Where a place of business of the taxpayer is  
18 changed, the taxpayer must return to the department the existing  
19 certificate, and a new certificate will be issued for the new place of  
20 business. No person required to be registered under this section shall  
21 engage in any business taxable hereunder without first being so  
22 registered. The department, by rule, may provide for the issuance of  
23 certificates of registration to temporary places of business.

24       (2) (~~Unless the person is a dealer as defined in RCW 9.41.010~~)  
25 Except as required under RCW 9.41.135, registration under this section  
26 is not required if the following conditions are met:

27       (a) A person's value of products, gross proceeds of sales, or gross  
28 income of the business, from all business activities, is less than  
29 twelve thousand dollars per year;

30       (b) The person is not required to collect or pay to the department  
31 of revenue any other tax which the department is authorized to collect;  
32 and

33       (c) The person is not otherwise required to obtain a license  
34 subject to the master application procedure provided in chapter 19.02  
35 RCW.

36       **Sec. 8.** RCW 82.32.320 and 1975 1st ex.s. c 278 s 92 are each  
37 amended to read as follows:

1       The department of revenue, on the next business day following the  
2 receipt of any payments hereunder, shall transmit them to the state  
3 treasurer, taking his or her receipt therefor. If a return or payment  
4 is submitted with less than the full amount of all taxes, interest, and  
5 penalties due, the department may allocate payments among applicable  
6 funds so as to minimize administrative costs to the extent practicable.

7       NEW SECTION.   **Sec. 9.** 1994 sp.s. c 7 s 445 is repealed.

8       NEW SECTION.   **Sec. 10.** The department may adopt rules necessary to  
9 implement the provisions of this act.

10       NEW SECTION.   **Sec. 11.** This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and shall take  
13 effect immediately.

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