
HOUSE BILL 2121

State of Washington

56th Legislature

1999 Regular Session

By Representatives Haigh and Eickmeyer

Read first time 02/16/1999. Referred to Committee on Finance.

1 AN ACT Relating to leasehold excise taxation; amending RCW
2 82.29A.120, 82.29A.050, and 82.29A.080; and providing an effective
3 date.

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

5 **Sec. 1.** RCW 82.29A.120 and 1994 c 95 s 2 are each amended to read
6 as follows:

7 (1) After computation of the taxes imposed pursuant to RCW
8 82.29A.030 and 82.29A.040 there shall be allowed the following credits
9 in determining the tax payable:

10 ~~((1))~~ (a) With respect to a leasehold interest other than a
11 product lease, executed with an effective date of April 1, 1986, or
12 thereafter, or a leasehold interest in respect to which the department
13 of revenue under the authority of RCW 82.29A.020 does adjust the
14 contract rent base used for computing the tax provided for in RCW
15 82.29A.030, there shall be allowed a credit against the tax as
16 otherwise computed equal to the amount, if any, that such tax exceeds
17 the property tax that would apply to such leased property without
18 regard to any property tax exemption under RCW 84.36.381, if it were
19 privately owned by the lessee or if it were privately owned by any

1 sublessee if the value of the credit inures to the sublessee(~~(. For~~
2 ~~lessees and sublessees who would qualify for a property tax exemption~~
3 ~~under RCW 84.36.381 if the property were privately owned, the tax~~
4 ~~otherwise due after this credit shall be reduced by a percentage equal~~
5 ~~to the percentage reduction in property tax that would result from the~~
6 ~~property tax exemption under RCW 84.36.381.~~

7 (2))i

8 (b) With respect to a leasehold interest consisting of residential
9 and recreational lots that are subleased for residential and
10 recreational purposes for which taxable rent is determined under RCW
11 82.29A.020(2)(b), there shall be allowed a credit against the tax as
12 otherwise computed and after any credit under (a) of this subsection
13 equal to the amount, if any, that the tax due after any credit under
14 (a) of this subsection exceeds an increase in revenue on the leasehold
15 interest from the prior year of the lesser of six percent or the
16 inflation factor. The inflation factor is the percentage change in the
17 implicit price deflator for personal consumption expenditures for the
18 United States as published for the most recent twelve-month period by
19 the bureau of economic analysis of the federal department of commerce
20 in September of the year before the taxes are payable;

21 (c) With respect to a product lease, a credit of thirty-three
22 percent of the tax otherwise due.

23 (2) For lessees and sublessees who would qualify for a property tax
24 exemption under RCW 84.36.381 if the property were privately owned, the
25 tax otherwise due after the credits authorized in subsection (1) of
26 this section shall be reduced by a percentage equal to the percentage
27 reduction in property tax that would result from the property tax
28 exemption under RCW 84.36.381.

29 **Sec. 2.** RCW 82.29A.050 and 1992 c 206 s 6 are each amended to read
30 as follows:

31 (1) Except as provided in subsection (2) of this section, the
32 leasehold excise taxes provided for in RCW 82.29A.030 and 82.29A.040
33 shall be paid by the lessee to the lessor and the lessor shall collect
34 such tax and remit the same to the department of revenue. The tax
35 shall be payable at the same time as payments are due to the lessor for
36 use of the property from which the leasehold interest arises, and in
37 the case of payment of contract rent to a person other than the lessor,
38 at the time of payment. The tax payment shall be accompanied by such

1 information as the department of revenue may require. In the case of
2 prepaid contract rent the payment may be prorated in accordance with
3 instructions of the department of revenue and the prorated portion of
4 the tax shall be due, one-half not later than May 31 and the other half
5 not later than November 30 each year.

6 (2) Leasehold excise taxes on a leasehold interest consisting of
7 three thousand or more residential and recreational lots that are
8 subleased for residential and recreational purposes for which taxable
9 rent is determined under RCW 82.29A.020(2)(b) shall be paid by the
10 sublessee, or the lessee if there is no sublessee for a particular lot,
11 to the county treasurer at such times and subject to the same penalties
12 as property taxes under RCW 84.56.020. Immediately following the last
13 day of each month, the county treasurer shall remit the taxes collected
14 to the state treasurer. The state treasurer shall deposit the local
15 leasehold tax moneys into the local leasehold excise tax account. The
16 remittance shall be accompanied by such information as the department
17 of revenue may require. However, if the tax imposed on any sublessee
18 becomes delinquent for a period of two years, the lessee shall be
19 responsible for paying such back taxes and penalties to the county
20 within thirty days of receipt of a notice from the county to the lessee
21 reporting the delinquency.

22 (3) The lessor receiving taxes payable under the provisions of this
23 chapter shall remit the same together with a return provided by the
24 department, to the department of revenue on or before the last day of
25 the month following the month in which the tax is collected. The
26 department may relieve any taxpayer or class of taxpayers from the
27 obligation of filing monthly returns and may require the return to
28 cover other reporting periods, but in no event shall returns be filed
29 for a period greater than one year. The lessor shall be fully liable
30 for collection and remittance of the tax. The amount of tax until paid
31 by the lessee to the lessor shall constitute a debt from the lessee to
32 the lessor. The tax required by this chapter shall be stated
33 separately from contract rent, and if not so separately stated for
34 purposes of determining the tax due from the lessee to the lessor and
35 from the lessor to the department, the contract rent does not include
36 the tax imposed by this chapter. Where a lessee has failed to pay to
37 the lessor the tax imposed by this chapter and the lessor has not paid
38 the amount of the tax to the department, the department may, in its
39 discretion, proceed directly against the lessee for collection of the

1 tax: PROVIDED, That taxes due where contract rent has not been paid
2 shall be reported by the lessor to the department and the lessee alone
3 shall be liable for payment of the tax to the department.

4 ~~((3))~~ (4) Each person having a leasehold interest subject to the
5 tax provided for in this chapter arising out of a lease of federally
6 owned or federal trust lands shall report and remit the tax due
7 directly to the department of revenue in the same manner and at the
8 same time as the lessor would be required to report and remit the tax
9 if such lessor were a state public entity.

10 **Sec. 3.** RCW 82.29A.080 and 1985 c 57 s 84 are each amended to read
11 as follows:

12 The counties and cities shall contract, prior to the effective date
13 of an ordinance imposing a leasehold excise tax, with the department of
14 revenue for administration and collection. The department of revenue
15 shall deduct a percentage amount, as provided by such contract, not to
16 exceed two percent of the taxes collected, for administration and
17 collection expenses incurred by the department. No amount may be
18 deducted for taxes collected under RCW 82.29A.080(2). The remainder of
19 any portion of any tax authorized by RCW 82.29A.040 which is collected
20 by the department of revenue shall be deposited by the state department
21 of revenue in the local leasehold excise tax account hereby created in
22 the state treasury. Moneys in the local leasehold excise tax account
23 may be spent only for distribution to counties and cities imposing a
24 leasehold excise tax.

25 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2000.

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