
HOUSE BILL 3155

State of Washington

56th Legislature

2000 Regular Session

By Representative Thomas

Read first time . Referred to Committee on .

1 AN ACT Relating to taxation; amending RCW 41.40.052, 82.03.130,
2 82.03.140, 82.04.060, 82.04.460, 82.04.480, 82.08.020, 82.08.0255,
3 82.08.090, 82.12.010, 82.12.020, 82.12.0252, 82.12.0255, 82.12.0256,
4 82.12.035, 82.12.060, 82.04.230, 82.04.240, 82.04.250, 82.04.255,
5 82.04.263, 82.04.2635, 82.04.270, 82.04.270, 82.04.280, 82.04.280,
6 82.04.2905, 82.04.2907, 82.45.060, 82.04.290, 82.04.290, and 82.04.290;
7 reenacting and amending RCW 82.04.050, 82.04.190, 82.04.250, 82.04.260,
8 82.04.290, 82.04.290, and 82.04.290; adding new sections to chapter
9 82.08 RCW; adding new sections to chapter 82.12 RCW; adding a new title
10 to the Revised Code of Washington to be codified as Title 82A RCW;
11 creating a new section; repealing RCW 82.08.02525, 82.08.0253,
12 82.08.02535, 82.08.02537, 82.08.0256, 82.08.02565, 82.08.02566,
13 82.08.02567, 82.08.02568, 82.08.02569, 82.08.0257, 82.08.02573,
14 82.08.0258, 82.08.0259, 82.08.0261, 82.08.0262, 82.08.0263, 82.08.0264,
15 82.08.0265, 82.08.0266, 82.08.02665, 82.08.0267, 82.08.0268,
16 82.08.0269, 82.08.0271, 82.08.0272, 82.08.0273, 82.08.0274,
17 82.08.02745, 82.08.0275, 82.08.0276, 82.08.0277, 82.08.0278,
18 82.08.0279, 82.08.02795, 82.08.0282, 82.08.0285, 82.08.0287,
19 82.08.02875, 82.08.0288, 82.08.0289, 82.08.0291, 82.08.02915,
20 82.08.02917, 82.08.0294, 82.08.0296, 82.08.0298, 82.08.0299, 82.08.031,
21 82.08.0311, 82.08.0315, 82.08.036, 82.08.810, 82.08.811, 82.08.812,

1 82.08.820, 82.08.830, 82.08.832, 82.12.02525, 82.12.02545, 82.12.02565,
2 82.12.02566, 82.12.02567, 82.12.02568, 82.12.02569, 82.12.0257,
3 82.12.0258, 82.12.0259, 82.12.02595, 82.12.0261, 82.12.0262,
4 82.12.0263, 82.12.0264, 82.12.0265, 82.12.0267, 82.12.0268,
5 82.12.02685, 82.12.0269, 82.12.0271, 82.12.0272, 82.12.0273,
6 82.12.0274, 82.12.02745, 82.12.0276, 82.12.0279, 82.12.0282,
7 82.12.0283, 82.12.0284, 82.12.02915, 82.12.02917, 82.12.0294,
8 82.12.0296, 82.12.0298, 82.12.031, 82.12.0311, 82.12.0315, 82.12.0345,
9 82.12.0347, 82.12.038, 82.12.800, 82.12.801, 82.12.802, 82.12.810,
10 82.12.811, 82.12.812, 82.12.820, and 82.12.832; prescribing penalties;
11 providing contingent effective dates; and providing expiration dates.

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

13 **PART I**
14 **INCOME TAX**

15 NEW SECTION. **Sec. 101.** DEFINITIONS. Unless the context clearly
16 requires otherwise, the definitions in this section apply throughout
17 this title. Except as provided in this section, any term used in this
18 title has the same meaning as when used in a comparable context in the
19 internal revenue code.

20 (1) "Adjusted gross income" means adjusted gross income as
21 determined under the internal revenue code.

22 (2) "Department" means the state department of revenue.

23 (3) "Director" means the director of the department.

24 (4) "Federal base income" means:

25 (a) For individuals, adjusted gross income.

26 (b) For all other persons, taxable income as determined under the
27 internal revenue code.

28 (5) "Individual" means a natural person.

29 (6) "Internal revenue code" means the United States internal
30 revenue code of 1986 and amendments thereto, as existing and in effect
31 on January 1, 2000.

32 (7) "Person" includes individuals, partnerships, firms, companies,
33 fiduciaries, estates, trusts, and corporations.

34 (8) "Resident individual" includes:

35 (a) An individual who has resided in this state for the entire
36 taxable year;

1 (b) An individual who is domiciled in this state unless the
2 individual:

3 (i) Maintains no permanent place of abode in this state;

4 (ii) Does maintain a permanent place of abode elsewhere; and

5 (iii) Spends in the aggregate not more than thirty days in the
6 taxable year in this state;

7 (c) An individual who is not domiciled in this state, but maintains
8 a permanent place of abode in this state and spends in the aggregate
9 more than one hundred eighty-three days of the taxable year in this
10 state unless the individual establishes to the satisfaction of the
11 director of the department that the individual is in the state only for
12 temporary or transitory purposes; and

13 (d) An individual who claims the state of Washington as the
14 individual's tax home for federal income tax purposes.

15 (9) "Resident estate" means an estate of which a personal
16 representative was appointed by a Washington court, or, an estate the
17 administration of which is carried on in this state.

18 (10) "Resident trust" means a trust whose situs as determined by
19 RCW 11.96.040 is within the state of Washington.

20 (11) "Taxable income" means federal base income after making the
21 additions, subtractions, apportionments, and allocations provided under
22 this title.

23 (12) "Taxable year" means the taxpayer's taxable year as defined
24 under the internal revenue code.

25 (13) "Taxpayer" means a person receiving income subject to tax
26 under this title.

27 NEW SECTION. **Sec. 102.** INCOME TAX IMPOSED. A tax is imposed on
28 taxable income of each individual, estate, and trust at the rate of one
29 and nine-tenths percent. A tax is imposed on the taxable income of
30 each corporation at the rate of six percent.

31 NEW SECTION. **Sec. 103.** TAXABLE INCOME MODIFICATIONS. In
32 computing taxable income, modifications shall be made to the taxpayer's
33 federal base income as required under this section, unless the
34 modification has the effect of duplicating an item of income or
35 deduction.

1 (1) Add amounts that have been deducted in computing federal base
2 income to the extent the amounts have been carried over from taxable
3 years ending before the effective date of this section.

4 (2) Add amounts that have been deducted in computing federal base
5 income to the extent the amounts have been carried back from future
6 taxable years.

7 (3) Add taxes on or measured by net income that have been deducted
8 under the internal revenue code in computing federal base income.

9 (4) Add gross income that has been excluded under section 103 of
10 the internal revenue code in computing federal base income, except
11 gross income derived from obligations of the state of Washington or
12 political subdivisions of the state of Washington.

13 (5) Subtract any expenses incurred in the production of amounts
14 added under subsection (4) of this section, to the extent the expenses
15 have not been deducted in computing federal base income.

16 (6) Subtract gross income that the state is prohibited from taxing
17 under the Constitution or laws of the United States, to the extent the
18 gross income was included in computing federal base income.

19 (7) Add any expenses incurred in the production of amounts
20 subtracted under subsection (6) of this section, to the extent the
21 expenses have been deducted in computing federal base income.

22 NEW SECTION. **Sec. 104.** TAX RETURNS FOR FRACTIONAL YEAR. (1) If
23 the first taxable year of any taxpayer with respect to which a tax is
24 imposed by this title ends before December 31st of the calendar year in
25 which this title becomes effective, referred to in this section as a
26 fractional taxable year, the taxable income for the fractional taxable
27 year shall be the taxpayer's taxable income for the entire taxable
28 year, adjusted by one of the following methods, at the taxpayer's
29 election:

30 (a) The taxable income shall be multiplied by a fraction. The
31 numerator of the fraction is the number of days in the fractional
32 taxable year. The denominator of the fraction is the number of days in
33 the entire taxable year.

34 (b) The taxable income shall be adjusted, in accordance with rules
35 of the department, so as to include only such income and be reduced
36 only by such deductions as can be clearly determined from the permanent
37 records of the taxpayer to be attributable to the fractional taxable
38 year.

1 (2) If an individual taxpayer's taxable income is adjusted under
2 subsection (1) of this section, the deduction amounts allowed under
3 section 402 of this act for the taxpayer shall be reduced by
4 multiplying the amount of the exemption by a fraction. The numerator
5 of the fraction is the number of days in the taxpayer's fractional
6 taxable year. The denominator of the fraction is the number of days in
7 the entire taxable year.

8 NEW SECTION. **Sec. 105.** APPORTIONMENT AND ALLOCATION OF INCOME--
9 INDIVIDUALS, ESTATES, AND TRUSTS. (1) For resident individuals,
10 estates, and trusts, all income shall be apportioned and allocated to
11 this state.

12 (2) For nonresident individuals, estates, and trusts, income
13 derived from sources within this state shall be apportioned and
14 allocated to this state. For purposes of this title:

15 (a) The adjusted gross income of a nonresident derived from sources
16 within this state is the net amount of items of income, gain, loss, and
17 deduction of the nonresident's federal adjusted gross income that are
18 derived from or connected with sources in this state including any
19 distributive share of partnership income and deductions, and any share
20 of estate or trust income and deductions, including any unrelated
21 business income of an otherwise exempt trust or organization.

22 (b) Items of income, gain, loss, and deduction derived from or
23 connected with sources within this state are those items attributable
24 to the ownership or disposition of any interest in real or tangible
25 personal property in this state, and a business, trade, profession, or
26 occupation carried on within this state.

27 (c) Deduction with respect to expenses, capital losses, and net
28 operating losses shall be based solely on income, gains, losses, and
29 deductions derived from or connected with sources in this state but
30 shall otherwise be determined in the same manner as the corresponding
31 federal deduction except as provided in this title.

32 (d) Income from intangible personal property, including annuities,
33 dividends, interest, and gains from the disposition of intangible
34 personal property, constitutes income derived from sources within the
35 state of Washington only to the extent that such income is from
36 property employed in a business, trade, profession, or occupation
37 carried on within this state: PROVIDED, That distributed and
38 undistributed income of an electing S corporation for federal tax

1 purposes derived from or connected with sources within this state is
2 income derived from sources within this state for a nonresident
3 shareholder. A net operating loss of such corporation does constitute
4 a loss or deduction connected with sources within this state for a
5 nonresident shareholder.

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

9 (f) If a business, trade, profession, or occupation is carried on
10 partly within and partly without this state, the determination of net
11 income derived or connected with sources within this state as provided
12 in this section, shall be made by apportionment and allocation under
13 chapter 82.56 RCW.

14 NEW SECTION. **Sec. 106.** ESTATES, TRUSTS, AND BENEFICIARIES. (1)
15 The taxable incomes of estates, trusts, and beneficiaries thereof shall
16 be computed by including a share of the modifications under sections
17 103 through 105 of this act and the credits allowed under section 107
18 of this act. Each taxpayer's share of a modification or credit is the
19 amount of modification or credit multiplied by a fraction. The
20 numerator of the fraction is the taxpayer's share of the distributable
21 net income of the estate or trust. The denominator of the fraction is
22 the total distributable net income of the estate or trust. The
23 fraction shall never be greater than one.

24 (2) As used in this section, "distributable net income" means
25 distributable net income as defined in the internal revenue code. If
26 an estate or trust has no federal distributable net income, the term
27 means the income of the estate or trust that is distributed or is
28 required to be distributed during the taxable year under local law or
29 the terms of the estate or trust instrument.

30 (3) Any portion of a modification that is not included in
31 calculating the taxable incomes of the beneficiaries shall be included
32 in calculating the taxable income of the trust or estate.

33 NEW SECTION. **Sec. 107.** CREDIT FOR INCOME TAXES DUE ANOTHER
34 JURISDICTION. (1) The intent of this section is to prevent double
35 taxation of income potentially subject to tax in both Washington and
36 another jurisdiction.

1 (2) As used in this section, "another jurisdiction" means another
2 state or foreign country, or a political subdivision of another state
3 or foreign country.

4 (3) A resident individual, estate, or trust is allowed a credit
5 against the tax imposed under this title, equal to the lesser of:

6 (a) The amount of tax paid to another jurisdiction on net income
7 derived from sources within the other jurisdiction; or

8 (b) The amount of tax due under this title, before application of
9 credits allowable by this title, multiplied by a fraction. The
10 numerator of the fraction is the amount of the taxpayer's adjusted
11 gross income subject to tax in the other jurisdiction. The denominator
12 of the fraction is the taxpayer's total adjusted gross income as
13 modified under section 103 of this act. The fraction shall never be
14 greater than one.

15 (4) If the laws of another jurisdiction contain a provision
16 exempting a resident of Washington from net income taxes on income
17 derived from sources in that jurisdiction, the director is authorized
18 to enter into a reciprocal agreement with that jurisdiction providing
19 a similar tax exemption for residents of that jurisdiction for income
20 derived from sources within Washington.

21 (5) The amount of tax credits received by any taxpayer under this
22 section shall not exceed the total amount of tax due, and there shall
23 be no carryback or carryforward of any unused credits.

24 NEW SECTION. **Sec. 108.** DUAL RESIDENCE. If an individual is
25 regarded as a resident both of this state and another jurisdiction for
26 state personal income tax purposes, the department shall reduce the tax
27 on that portion of the individual's income that is subjected to tax in
28 both jurisdictions solely by virtue of dual residence, if the other
29 taxing jurisdiction allows a similar reduction. The reduction shall
30 equal the lower of the two taxes applicable to the income taxed twice,
31 multiplied by a fraction. The numerator of the fraction is the tax
32 imposed by this state on the income taxed twice. The denominator of
33 the fraction is the tax imposed by both jurisdictions on the income
34 taxed twice. The fraction shall never be greater than one.

35 NEW SECTION. **Sec. 109.** EMPLOYER WITHHOLDING--REQUIREMENTS. (1)
36 Every employer making a payment of wages or salaries earned in this
37 state, regardless of the place where the payment is made, and who is

1 required by the internal revenue code to withhold taxes, shall deduct
2 and withhold tax as prescribed by the department by rule. The rules
3 prescribed shall reasonably reflect the annual tax liability under this
4 title of the employee under this title. Every employer making such a
5 deduction and withholding shall furnish to the employee a record of the
6 amount of tax deducted and withheld from the employee on forms provided
7 by the department.

8 (2) If the employee is a resident of this state and earns income
9 from personal services entirely performed in another state that imposes
10 an income tax on the income, and the employer withholds income taxes
11 under the laws of the state in which the income is earned, the employer
12 is not required to withhold any tax imposed by this title on the income
13 if the laws of the state in which the income is earned allow a similar
14 exemption for its residents who earn income in this state.

15 NEW SECTION. **Sec. 110.** LIABILITY OF EMPLOYER FOR TAX WITHHELD.
16 Any person required to deduct and withhold the tax imposed by this
17 title is liable to the department for the payment of the amount
18 deducted and withheld, and is not liable to any other person for the
19 amount of tax deducted and withheld under this title or for the act of
20 withholding. The amount of tax so deducted and withheld shall be held
21 to be a special fund in trust for this state.

22 NEW SECTION. **Sec. 111.** CREDIT FOR TAX WITHHELD--HOW CLAIMED. The
23 amount deducted and withheld as tax under section 109 of this act
24 during any taxable year shall be allowed as a credit against the tax
25 imposed for the taxable year by this title. If the liability of any
26 individual for taxes, interest, penalties, or other amounts due the
27 state of Washington is less than the total amount of the credit that
28 the individual is entitled to claim under this section, the individual
29 is entitled to a refund from the department in the amount of the excess
30 of the credit over the amounts otherwise due. If any individual
31 entitled to claim a credit under this section is not otherwise required
32 by this title to file a return, a refund may be obtained in the amount
33 of the credit by filing a return, with applicable sections completed,
34 to claim the refund. No credit or refund is allowed under this section
35 unless the credit or refund is claimed on a return filed for the
36 taxable year for which the amount was deducted and withheld.

1 NEW SECTION. **Sec. 112.** WITHHOLDING--FAILURE TO PAY OR COLLECT--
2 PENALTIES. (1) The tax required by this title to be collected by the
3 employer shall be deemed to be held in trust by the employer until paid
4 to the department.

5 (2) In case any employer, or a responsible person within the
6 meaning of section 6672 of the internal revenue code, fails to collect
7 the tax imposed by this title or having collected the tax fails to pay
8 it to the department, the employer or responsible person shall,
9 nevertheless, be personally liable to the state for the amount of the
10 tax. The interest and penalty provisions of chapter 82.32 RCW apply to
11 this section.

12 NEW SECTION. **Sec. 113.** ESTIMATED TAX IMPOSED--DUE DATE OF
13 ESTIMATED TAXES--AMOUNT OF ESTIMATED TAX--UNDERPAYMENT PENALTY. (1)
14 Each taxpayer who is required by the internal revenue code to make
15 payment of estimated taxes shall pay to the department on forms
16 prescribed by the department the estimated taxes due under this title.

17 (2) The provisions of the internal revenue code relating to the
18 determination of reporting periods and due dates of payments of
19 estimated tax apply to the estimated tax payments due under this
20 section.

21 (3) The amount of the estimated tax shall be the annualized tax
22 divided by the number of months in the reporting period. No estimated
23 tax shall be due if the annualized tax is less than five hundred
24 dollars. The provisions of RCW 82.32.050 and 82.32.090 shall apply to
25 underpayments of estimated tax but shall not apply to underpayments if
26 the tax remitted to the department under sections 101 through 122 of
27 this act is either ninety percent of the tax shown on the return or one
28 hundred percent of the tax shown on the previous year's tax return.

29 (4) For purposes of this section, the annualized tax is the
30 taxpayer's projected tax liability for the taxable year as computed
31 under section 6654 of the internal revenue code and the regulations
32 thereunder.

33 NEW SECTION. **Sec. 114.** METHOD OF ACCOUNTING. (1) A taxpayer's
34 method of accounting for purposes of the tax imposed under this title
35 shall be the same as the taxpayer's method of accounting for federal
36 income tax purposes. If no method of accounting has been regularly
37 used by a taxpayer for federal income tax purposes or if the method

1 used does not clearly reflect income, tax due under this title shall be
2 computed by a method of accounting that in the opinion of the
3 department fairly reflects income.

4 (2) If a person's method of accounting is changed for federal
5 income tax purposes, it shall be similarly changed for purposes of this
6 title.

7 NEW SECTION. **Sec. 115.** PERSONS REQUIRED TO FILE RETURNS. (1)
8 All taxpayers shall file with the department, on forms prescribed by
9 the department, an income tax return for each taxable year. An
10 individual owing no tax for a taxable year is not required to file a
11 return for that year. Each person required to file a return under this
12 title shall, without assessment, notice, or demand, pay any tax due
13 thereon to the department on or before the date fixed for the filing of
14 the return.

15 (2) The department may by rule require that certain taxpayers file,
16 on forms prescribed by the department, informational returns for any
17 period.

18 (3) If an adjustment to a taxpayer's federal return is made by the
19 taxpayer or the internal revenue service, the taxpayer shall, within
20 ninety days of the final determination of the adjustment by the
21 internal revenue service or within thirty days of the filing of a
22 federal return adjusted by the taxpayer, file with the department on
23 forms prescribed by the department, a corrected return reflecting the
24 adjustments as finally determined. The taxpayer shall pay any
25 additional tax due resulting from the finally determined internal
26 revenue service adjustment or a taxpayer adjustment without notice and
27 assessment. The period of limitation for the collection of the
28 additional tax, interest, and penalty due as a result of an adjustment
29 by the taxpayer or a finally determined internal revenue service
30 adjustment shall begin at the later of thirty days following the final
31 determination of the adjustment or the date of the filing of the
32 corrected return.

33 NEW SECTION. **Sec. 116.** DUE DATE FOR FILING A RETURN--EXTENSIONS--
34 INTEREST AND PENALTIES. The due date of a return required to be filed
35 with the department shall be the due date of the federal income tax
36 return or informational return for federal income tax purposes. The
37 department has the authority to grant extensions of times by which

1 returns required to be filed by this title may be submitted. The
2 department also has the authority to grant extensions of time to pay
3 tax with regard to taxes imposed by this title. Interest at the rate
4 as specified in RCW 82.32.050 shall accrue during any extension period
5 and the interest and penalty provisions of chapter 82.32 RCW shall
6 apply to late payments and deficiencies. Notwithstanding the
7 limitation of RCW 82.32.090, in the case of the late filing of an
8 informational return, there shall be imposed a penalty the amount of
9 which shall be established by the department by rule. The penalty
10 shall not exceed fifty dollars per month for a maximum of ten months.
11 RCW 82.32.105 shall apply to this section.

12 NEW SECTION. **Sec. 117.** JOINT RETURN. (1) If the federal income
13 tax liabilities of both spouses are determined on a joint federal
14 return for the taxable year, they shall file a joint return under this
15 title.

16 (2) If neither spouse is required to file a federal income tax
17 return for the taxable year, a joint return shall be filed under this
18 title under the same conditions under which a joint return may be filed
19 for purposes of the federal income tax.

20 (3) If the federal income tax liability of either spouse is
21 determined on a separate federal return for the taxable year, they
22 shall file separate returns under this title.

23 (4) In any case in which a joint return is filed under this
24 section, the liability of the husband and wife is joint and several,
25 unless the spouse is relieved of liability under section 6013 of the
26 internal revenue code.

27 NEW SECTION. **Sec. 118.** RECORDS--RETURNS. (1) Every taxpayer and
28 every person required to deduct and withhold the tax imposed under this
29 title shall keep records, render statements, make returns, file
30 reports, and perform other acts as the department requires by rule.
31 Each return shall be made under penalty of perjury and on forms
32 prescribed by the department. The department may require other
33 statements and reports be made under penalty of perjury and on forms
34 prescribed by the department. The department may require any taxpayer
35 and any person required to deduct and withhold the tax imposed under
36 this title to furnish to the department a correct copy of any return or

1 document that the taxpayer has filed with the internal revenue service
2 or received from the internal revenue service.

3 (2) All books and records and other papers and documents required
4 to be kept under this title are subject to inspection by the department
5 at all times during business hours of the day.

6 NEW SECTION. **Sec. 119.** PROVISIONS OF INTERNAL REVENUE CODE
7 CONTROL. (1) To the extent possible without being inconsistent with
8 this title, all of the provisions of the internal revenue code relating
9 to the following subjects apply to the taxes imposed under this title:

10 (a) Time of payment of tax deducted and withheld under section 501
11 of this act;

12 (b) Liability of transferees;

13 (c) Time and manner of making returns, extensions of time for
14 filing returns, verification of returns, and the time when a return is
15 deemed filed.

16 (2) The department by rule may provide modifications and exceptions
17 to the provisions in subsection (1) of this section, if reasonably
18 necessary to facilitate the prompt, efficient, and equitable collection
19 of tax under this title.

20 NEW SECTION. **Sec. 120.** REFUNDS OF OVERPAYMENTS--OTHER
21 ADMINISTRATIVE PROVISIONS. (1) The department shall refund all taxes
22 improperly paid or collected.

23 (2) The following sections apply to the administration of taxes
24 imposed under this title: RCW 82.32.020, 82.32.050, 82.32.060,
25 82.32.070, 82.32.090, 82.32.100, 82.32.105, 82.32.110, 82.32.120,
26 82.32.130, 82.32.140, 82.32.150, 82.32.160, 82.32.170, 82.32.180,
27 82.32.190, 82.32.200, 82.32.210, 82.32.220, 82.32.230, 82.32.235,
28 82.32.237, 82.32.240, 82.32.245, 82.32.260, 82.32.265, 82.32.300,
29 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360, and
30 82.32.380.

31 NEW SECTION. **Sec. 121.** RULES. The department may adopt rules
32 under chapter 34.05 RCW for the administration and enforcement of this
33 title. The rules, to the extent possible without being inconsistent
34 with this title, shall follow the internal revenue code and the
35 regulations and rulings of the United States department of the treasury
36 with respect to the federal income tax. The department may adopt as a

1 part of these rules any portions of the internal revenue code and
2 treasury department regulations and rulings, in whole or in part.

3 NEW SECTION. **Sec. 122.** CRIMES. (1) Any person who knowingly
4 attempts to evade the tax imposed under this title or payment thereof
5 is guilty of a class C felony as provided in chapter 9A.20 RCW.

6 (2) Any person required to collect tax imposed under this title who
7 knowingly fails to collect, truthfully account for, or pay over the tax
8 is guilty of a class C felony as provided in chapter 9A.20 RCW.

9 (3) Any person who knowingly fails to pay tax, pay estimated tax,
10 make returns, keep records, or supply information, as required under
11 this title, is guilty of a gross misdemeanor as provided in chapter
12 9A.20 RCW.

13 **Sec. 123.** RCW 41.40.052 and 1999 c 83 s 1 are each amended to read
14 as follows:

15 (1) Subject to subsections (2) and (3) of this section, the right
16 of a person to a pension, an annuity, or retirement allowance, any
17 optional benefit, any other right accrued or accruing to any person
18 under the provisions of this chapter, the various funds created by this
19 chapter, and all moneys and investments and income thereof, are hereby
20 exempt from any state, county, municipal, or other local tax, and shall
21 not be subject to execution, garnishment, attachment, the operation of
22 bankruptcy or insolvency laws, or other process of law whatsoever, and
23 shall be unassignable.

24 (2)(a) This section shall not be deemed to prohibit a beneficiary
25 of a retirement allowance from authorizing deductions therefrom for
26 payment of premiums due on any group insurance policy or plan issued
27 for the benefit of a group comprised of public employees of the state
28 of Washington or its political subdivisions and which has been approved
29 for deduction in accordance with rules that may be adopted by the state
30 health care authority and/or the department, and this section shall not
31 be deemed to prohibit a beneficiary of a retirement allowance from
32 authorizing deductions therefrom for payment of dues and other
33 membership fees to any retirement association or organization the
34 membership of which is composed of retired public employees, if a total
35 of three hundred or more of such retired employees have authorized such
36 deduction for payment to the same retirement association or
37 organization.

1 (b) This section does not prohibit a beneficiary of a retirement
2 allowance from authorizing deductions from that allowance for
3 charitable purposes on the same terms as employees and public officers
4 under RCW 41.04.035 and 41.04.036.

5 (3) Subsection (1) of this section shall not prohibit the
6 department from complying with (a) a wage assignment order for child
7 support issued pursuant to chapter 26.18 RCW, (b) an order to withhold
8 and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of
9 payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory
10 benefits assignment order issued by the department, (e) a court order
11 directing the department of retirement systems to pay benefits directly
12 to an obligee under a dissolution order as defined in RCW 41.50.500(3)
13 which fully complies with RCW 41.50.670 and 41.50.700, or (f) any
14 administrative or court order expressly authorized by federal law.

15 (4) Subsection (1) of this section does not exempt any pension or
16 other benefit received under this chapter from tax under Title 82A RCW,
17 nor does it prohibit the department of retirement systems from
18 complying with the tax withholding requirements of that title.

19 **Sec. 124.** RCW 82.03.130 and 1998 c 54 s 1 are each amended to read
20 as follows:

21 (1) The board shall have jurisdiction to decide the following types
22 of appeals:

23 (a) Appeals taken pursuant to RCW 82.03.190.

24 (b) Appeals from a county board of equalization pursuant to RCW
25 84.08.130.

26 (c) Appeals by an assessor or landowner from an order of the
27 director of revenue made pursuant to RCW 84.08.010 and 84.08.060, if
28 filed with the board of tax appeals within thirty days after the
29 mailing of the order, the right to such an appeal being hereby
30 established.

31 (d) Appeals by an assessor or owner of an intercounty public
32 utility or private car company from determinations by the director of
33 revenue of equalized assessed valuation of property and the
34 apportionment thereof to a county made pursuant to chapter 84.12 and
35 84.16 RCW, if filed with the board of tax appeals within thirty days
36 after mailing of the determination, the right to such appeal being
37 hereby established.

1 (e) Appeals by an assessor, landowner, or owner of an intercounty
2 public utility or private car company from a determination of any
3 county indicated ratio for such county compiled by the department of
4 revenue pursuant to RCW 84.48.075: PROVIDED, That

5 (i) Said appeal be filed after review of the ratio under RCW
6 84.48.075(3) and not later than fifteen days after the mailing of the
7 certification; and

8 (ii) The hearing before the board shall be expeditiously held in
9 accordance with rules prescribed by the board and shall take precedence
10 over all matters of the same character.

11 (f) Appeals from the decisions of sale price of second class
12 shorelands on navigable lakes by the department of natural resources
13 pursuant to RCW 79.94.210.

14 (g) Appeals from urban redevelopment property tax apportionment
15 district proposals established by governmental ordinances pursuant to
16 RCW 39.88.060.

17 (h) Appeals from interest rates as determined by the department of
18 revenue for use in valuing farmland under current use assessment
19 pursuant to RCW 84.34.065.

20 (i) Appeals from revisions to stumpage value tables used to
21 determine value by the department of revenue pursuant to RCW 84.33.091.

22 (j) Appeals from denial of tax exemption application by the
23 department of revenue pursuant to RCW 84.36.850.

24 (k) Appeals pursuant to RCW 84.40.038(3).

25 (l) Appeals relating to income tax deficiencies and refunds
26 including penalties and interest under Title 82A RCW.

27 (2) Except as otherwise specifically provided by law hereafter, the
28 provisions of RCW 1.12.070 shall apply to all notices of appeal filed
29 with the board of tax appeals.

30 **Sec. 125.** RCW 82.03.140 and 1988 c 222 s 4 are each amended to
31 read as follows:

32 In all appeals over which the board has jurisdiction under RCW
33 82.03.130, a party taking an appeal may elect either a formal or an
34 informal hearing, such election to be made according to rules of
35 practice and procedure to be promulgated by the board: PROVIDED, That
36 nothing shall prevent the assessor or taxpayer, as a party to an appeal
37 pursuant to RCW 84.08.130, within twenty days from the date of the
38 receipt of the notice of appeal, from filing with the clerk of the

1 board notice of intention that the hearing be a formal one: PROVIDED,
2 HOWEVER, That nothing herein shall be construed to modify the
3 provisions of RCW 82.03.190: AND PROVIDED FURTHER, That upon an appeal
4 under RCW 82.03.130(~~(+5)~~) (1) (e) or (1), the director of revenue may,
5 within ten days from the date of its receipt of the notice of appeal,
6 file with the clerk of the board notice of its (~~intention that the~~
7 ~~hearing be held pursuant to chapter 34.05 RCW~~) election of a formal
8 hearing. In the event that appeals are taken from the same decision,
9 order, or determination, as the case may be, by different parties and
10 only one of such parties elects a formal hearing, a formal hearing
11 shall be granted.

12 **PART II**

13 **SALES AND USE TAX REFORM**

14 **Sec. 201.** RCW 82.04.050 and 1998 c 332 s 2, 1998 c 315 s 1, 1998
15 c 308 s 1, and 1998 c 275 s 1 are each reenacted and amended to read as
16 follows:

17 (1) "Sale at retail" or "retail sale" means every sale of tangible
18 personal property (including articles produced, fabricated, or
19 imprinted) to all persons irrespective of the nature of their business
20 and including, among others, without limiting the scope hereof, persons
21 who install, repair, clean, alter, improve, construct, or decorate real
22 or personal property of or for consumers other than a sale to a person
23 who presents a resale certificate under RCW 82.04.470 and who:

24 (a) Purchases for the purpose of resale as tangible personal
25 property in the regular course of business without intervening use by
26 such person; or

27 (b) Installs, repairs, cleans, alters, imprints, improves,
28 constructs, or decorates real or personal property of or for consumers,
29 if such tangible personal property becomes an ingredient or component
30 of such real or personal property without intervening use by such
31 person; or

32 (c) Purchases for the purpose of consuming the property purchased
33 in producing for sale a new article of tangible personal property or
34 substance, of which such property becomes an ingredient or component or
35 is a chemical used in processing, when the primary purpose of such
36 chemical is to create a chemical reaction directly through contact with
37 an ingredient of a new article being produced for sale; or

1 (d) Purchases for the purpose of consuming the property purchased
2 in producing ferrosilicon which is subsequently used in producing
3 magnesium for sale, if the primary purpose of such property is to
4 create a chemical reaction directly through contact with an ingredient
5 of ferrosilicon; or

6 (e) Purchases for the purpose of providing the property to
7 consumers as part of competitive telephone service, as defined in RCW
8 82.04.065. The term shall include every sale of tangible personal
9 property which is used or consumed or to be used or consumed in the
10 performance of any activity classified as a "sale at retail" or "retail
11 sale" even though such property is resold or utilized as provided in
12 (a), (b), (c), (d), or (e) of this subsection following such use. The
13 term also means every sale of tangible personal property to persons
14 engaged in any business which is taxable under RCW 82.04.280 (2) and
15 (7) and 82.04.290.

16 (2) The term "sale at retail" or "retail sale" shall include the
17 sale of or charge made for tangible personal property consumed and/or
18 for labor and services rendered in respect to the following:

19 (a) The installing, repairing, cleaning, altering, imprinting, or
20 improving of tangible personal property of or for consumers, including
21 charges made for the mere use of facilities in respect thereto, but
22 excluding charges made for the use of coin-operated laundry facilities
23 when such facilities are situated in an apartment house, rooming house,
24 or mobile home park for the exclusive use of the tenants thereof, and
25 also excluding sales of laundry service to nonprofit health care
26 facilities(~~(, and excluding services rendered in respect to live~~
27 ~~animals, birds and insects));~~

28 (b) The constructing, repairing, decorating, or improving of new or
29 existing buildings or other structures under, upon, or above real
30 property of or for consumers, including the installing or attaching of
31 any article of tangible personal property therein or thereto, whether
32 or not such personal property becomes a part of the realty by virtue of
33 installation, and shall also include the sale of services or charges
34 made for the clearing of land and the moving of earth excepting the
35 mere leveling of land used in commercial farming or agriculture;

36 (c) The charge for labor and services rendered in respect to
37 constructing, repairing, or improving any structure upon, above, or
38 under any real property owned by an owner who conveys the property by
39 title, possession, or any other means to the person performing such

1 construction, repair, or improvement for the purpose of performing such
2 construction, repair, or improvement and the property is then
3 reconveyed by title, possession, or any other means to the original
4 owner;

5 (d) The sale of or charge made for labor and services rendered in
6 respect to the cleaning, fumigating, razing or moving of existing
7 buildings or structures(~~(, but shall not include the charge made for~~
8 ~~janitorial services; and for purposes of this section the term~~
9 ~~"janitorial services" shall mean those cleaning and caretaking services~~
10 ~~ordinarily performed by commercial janitor service businesses~~
11 ~~including, but not limited to, wall and window washing, floor cleaning~~
12 ~~and waxing, and the cleaning in place of rugs, drapes and upholstery.~~
13 ~~The term "janitorial services" does not include painting, papering,~~
14 ~~repairing, furnace or septic tank cleaning, snow removal or~~
15 ~~sandblasting));~~

16 (e) The sale of or charge made for labor and services rendered in
17 respect to automobile towing and similar automotive transportation
18 services, but not in respect to those required to report and pay taxes
19 under chapter 82.16 RCW;

20 (f) The sale of and charge made for the furnishing of lodging and
21 all other services by a hotel, rooming house, tourist court, motel,
22 trailer camp, and the granting of any similar license to use real
23 property, as distinguished from the renting or leasing of real
24 property, and it shall be presumed that the occupancy of real property
25 for a continuous period of one month or more constitutes a rental or
26 lease of real property and not a mere license to use or enjoy the same;

27 (g) The sale of or charge made for tangible personal property,
28 labor and services to persons taxable under (a), (b), (c), (d), (e),
29 and (f) of this subsection when such sales or charges are for property,
30 labor and services which are used or consumed in whole or in part by
31 such persons in the performance of any activity defined as a "sale at
32 retail" or "retail sale" even though such property, labor and services
33 may be resold after such use or consumption. Nothing contained in this
34 subsection shall be construed to modify subsection (1) of this section
35 and nothing contained in subsection (1) of this section shall be
36 construed to modify this subsection.

37 (3) The term "sale at retail" or "retail sale" shall include the
38 sale of or charge made for all personal, business, or professional
39 services including amounts designated as interest, rents, fees,

1 admission, and other service emoluments however designated, ((received
2 by persons engaging in the following business activities:

3 (a) Amusement and recreation services including but not limited to
4 golf, pool, billiards, skating, bowling, ski lifts and tows, day trips
5 for sightseeing purposes, and others, when provided to consumers;

6 (b) Abstract, title insurance, and escrow services;

7 (c) Credit bureau services;

8 (d) Automobile parking and storage garage services;

9 (e) Landscape maintenance and horticultural services but excluding
10 (i) horticultural services provided to farmers and (ii) pruning,
11 trimming, repairing, removing, and clearing of trees and brush near
12 electric transmission or distribution lines or equipment, if performed
13 by or at the direction of an electric utility;

14 (f) Service charges associated with tickets to professional
15 sporting events; and

16 (g) The following personal services: Physical fitness services,
17 tanning salon services, tattoo parlor services, steam bath services,
18 turkish bath services, escort services, and dating services)) unless
19 the purchaser presents a resale certificate under RCW 82.04.470 and
20 purchases for the purpose of:

21 (a) Selling the service without intervening use by the purchaser in
22 the regular course of business; or

23 (b) Incorporating the service as an integral part of a service
24 specified in this subsection that will be sold in the regular course of
25 business.

26 (4) The term shall also include the renting or leasing of tangible
27 personal property to consumers and the rental of equipment with an
28 operator.

29 (5) The term shall also include the providing of telephone service,
30 as defined in RCW 82.04.065, to consumers.

31 (6) The term shall also include the sale of canned software other
32 than a sale to a person who presents a resale certificate under RCW
33 82.04.470, regardless of the method of delivery to the end user, but
34 shall not include custom software or the customization of canned
35 software.

36 (7) The term shall not include the sale of or charge made for labor
37 and services rendered in respect to the building, repairing, or
38 improving of any street, place, road, highway, easement, right of way,
39 mass public transportation terminal or parking facility, bridge,

1 tunnel, or trestle which is owned by a municipal corporation or
2 political subdivision of the state or by the United States and which is
3 used or to be used primarily for foot or vehicular traffic including
4 mass transportation vehicles of any kind.

5 (8) The term shall also not include sales of chemical sprays or
6 washes to persons for the purpose of postharvest treatment of fruit for
7 the prevention of scald, fungus, mold, or decay, nor shall it include
8 sales of feed, seed, seedlings, fertilizer, agents for enhanced
9 pollination including insects such as bees, and spray materials to:

10 (a) Persons who participate in the federal conservation reserve
11 program, the environmental quality incentives program, the wetlands
12 reserve program, and the wildlife habitat incentives program, or their
13 successors administered by the United States department of agriculture;

14 (b) farmers for the purpose of producing for sale any agricultural
15 product; and (c) farmers acting under cooperative habitat development
16 or access contracts with an organization exempt from federal income tax
17 under 26 U.S.C. Sec. 501(c)(3) or the Washington state department of
18 fish and wildlife to produce or improve wildlife habitat on land that
19 the farmer owns or leases.

20 (9) The term shall not include the sale of or charge made for labor
21 and services rendered in respect to the constructing, repairing,
22 decorating, or improving of new or existing buildings or other
23 structures under, upon, or above real property of or for the United
24 States, any instrumentality thereof, or a county or city housing
25 authority created pursuant to chapter 35.82 RCW, including the
26 installing, or attaching of any article of tangible personal property
27 therein or thereto, whether or not such personal property becomes a
28 part of the realty by virtue of installation. Nor shall the term
29 include the sale of services or charges made for the clearing of land
30 and the moving of earth of or for the United States, any
31 instrumentality thereof, or a county or city housing authority. Nor
32 shall the term include the sale of services or charges made for
33 cleaning up for the United States, or its instrumentalities,
34 radioactive waste and other byproducts of weapons production and
35 nuclear research and development.

36 (10) Until July 1, 2003, the term shall not include the sale of or
37 charge made for labor and services rendered for environmental remedial
38 action as defined in RCW 82.04.2635(2).

1 **Sec. 202.** RCW 82.04.060 and 1998 c 332 s 5 are each amended to
2 read as follows:

3 "Sale at wholesale" or "wholesale sale" means any of the following
4 when not a sale at retail: (1) Any sale of tangible personal property;
5 (2) any sale of (~~amusement or recreation~~) services as defined in RCW
6 82.04.050(3)(~~(a)~~); (3) any sale of canned software; or (4) any sale
7 of telephone service as defined in RCW 82.04.065(~~(, which is not a sale~~
8 ~~at retail and)~~). "Sale at wholesale" or "wholesale sale" also means
9 any charge made for labor and services rendered for persons who are not
10 consumers, in respect to real or personal property, if such charge is
11 expressly defined as a retail sale by RCW 82.04.050 when rendered to or
12 for consumers: PROVIDED, That the term "real or personal property" as
13 used in this section shall not include any natural products named in
14 RCW 82.04.100.

15 **Sec. 203.** RCW 82.04.190 and 1998 c 332 s 6 and 1998 c 308 s 2 are
16 each reenacted and amended to read as follows:

17 "Consumer" means the following:

18 (1) Any person who purchases, acquires, owns, holds, or uses any
19 article of tangible personal property irrespective of the nature of the
20 person's business and including, among others, without limiting the
21 scope hereof, persons who install, repair, clean, alter, improve,
22 construct, or decorate real or personal property of or for consumers
23 other than for the purpose (a) of resale as tangible personal property
24 in the regular course of business or (b) of incorporating such property
25 as an ingredient or component of real or personal property when
26 installing, repairing, cleaning, altering, imprinting, improving,
27 constructing, or decorating such real or personal property of or for
28 consumers or (c) of consuming such property in producing for sale a new
29 article of tangible personal property or a new substance, of which such
30 property becomes an ingredient or component or as a chemical used in
31 processing, when the primary purpose of such chemical is to create a
32 chemical reaction directly through contact with an ingredient of a new
33 article being produced for sale or (d) purchases for the purpose of
34 consuming the property purchased in producing ferrosilicon which is
35 subsequently used in producing magnesium for sale, if the primary
36 purpose of such property is to create a chemical reaction directly
37 through contact with an ingredient of ferrosilicon;

1 (2)(a) Any person engaged in any business activity taxable under
2 RCW 82.04.290; (b) any person who purchases, acquires, or uses any
3 telephone service as defined in RCW 82.04.065, other than for resale in
4 the regular course of business; (c) any person who purchases, acquires,
5 or uses any amusement and recreation service defined in RCW
6 82.04.050(3)((+a)), other than for resale in the regular course of
7 business; and (d) any person who is an end user of software;

8 (3) Any person engaged in the business of contracting for the
9 building, repairing or improving of any street, place, road, highway,
10 easement, right of way, mass public transportation terminal or parking
11 facility, bridge, tunnel, or trestle which is owned by a municipal
12 corporation or political subdivision of the state of Washington or by
13 the United States and which is used or to be used primarily for foot or
14 vehicular traffic including mass transportation vehicles of any kind as
15 defined in RCW 82.04.280, in respect to tangible personal property when
16 such person incorporates such property as an ingredient or component of
17 such publicly owned street, place, road, highway, easement, right of
18 way, mass public transportation terminal or parking facility, bridge,
19 tunnel, or trestle by installing, placing or spreading the property in
20 or upon the right of way of such street, place, road, highway,
21 easement, bridge, tunnel, or trestle or in or upon the site of such
22 mass public transportation terminal or parking facility;

23 (4) Any person who is an owner, lessee or has the right of
24 possession to or an easement in real property which is being
25 constructed, repaired, decorated, improved, or otherwise altered by a
26 person engaged in business, excluding only (a) municipal corporations
27 or political subdivisions of the state in respect to labor and services
28 rendered to their real property which is used or held for public road
29 purposes, and (b) the United States, instrumentalities thereof, and
30 county and city housing authorities created pursuant to chapter 35.82
31 RCW in respect to labor and services rendered to their real property.
32 Nothing contained in this or any other subsection of this definition
33 shall be construed to modify any other definition of "consumer";

34 (5) Any person who is an owner, lessee, or has the right of
35 possession to personal property which is being constructed, repaired,
36 improved, cleaned, imprinted, or otherwise altered by a person engaged
37 in business;

38 (6) Any person engaged in the business of constructing, repairing,
39 decorating, or improving new or existing buildings or other structures

1 under, upon, or above real property of or for the United States, any
2 instrumentality thereof, or a county or city housing authority created
3 pursuant to chapter 35.82 RCW, including the installing or attaching of
4 any article of tangible personal property therein or thereto, whether
5 or not such personal property becomes a part of the realty by virtue of
6 installation; also, any person engaged in the business of clearing land
7 and moving earth of or for the United States, any instrumentality
8 thereof, or a county or city housing authority created pursuant to
9 chapter 35.82 RCW. Any such person shall be a consumer within the
10 meaning of this subsection in respect to tangible personal property
11 incorporated into, installed in, or attached to such building or other
12 structure by such person;

13 ~~(7) ((Any person who is a lessor of machinery and equipment, the
14 rental of which is exempt from the tax imposed by RCW 82.08.020 under
15 RCW 82.08.02565, with respect to the sale of or charge made for
16 tangible personal property consumed in respect to repairing the
17 machinery and equipment, if the tangible personal property has a useful
18 life of less than one year. Nothing contained in this or any other
19 subsection of this section shall be construed to modify any other
20 definition of "consumer";~~

21 ~~(8))~~ Any person engaged in the business of cleaning up for the
22 United States, or its instrumentalities, radioactive waste and other
23 byproducts of weapons production and nuclear research and development;
24 ~~((and~~

25 ~~(9))~~ (8) Until July 1, 2003, any person engaged in the business of
26 conducting environmental remedial action as defined in RCW
27 82.04.2635(2); and

28 (9) Any person who purchases, acquires, uses, or receives the
29 benefit of any service specified in RCW 82.04.050(3), unless the person
30 purchases for the purpose of:

31 (a) Selling the service without intervening use by the purchaser in
32 the regular course of business; or

33 (b) Incorporating the service as an integral part of a service
34 specified in this subsection that will be sold in the regular course of
35 business.

36 **Sec. 204.** RCW 82.04.460 and 1985 c 7 s 154 are each amended to
37 read as follows:

1 (1) Any person rendering services taxable under RCW 82.04.290 and
2 maintaining places of business both within and without this state which
3 contribute to the rendition of such services shall, for the purpose of
4 computing tax liability under RCW 82.04.290, apportion to this state
5 that portion of his gross income which is derived from services
6 rendered within this state. Where such apportionment cannot be
7 accurately made by separate accounting methods, the taxpayer shall
8 apportion to this state that proportion of his total income which the
9 cost of doing business within the state bears to the total cost of
10 doing business both within and without the state.

11 (2) Notwithstanding the provision of subsection (1) of this
12 section, persons doing business both within and without the state who
13 receive gross income from service charges, as defined in RCW 63.14.010
14 (relating to amounts charged for granting the right or privilege to
15 make deferred or installment payments) or who receive gross income from
16 engaging in business as financial institutions within the scope of
17 chapter 82.14A RCW (relating to city taxes on financial institutions)
18 shall apportion or allocate gross income taxable under RCW 82.04.290 to
19 this state pursuant to rules promulgated by the department consistent
20 with uniform rules for apportionment or allocation developed by the
21 states.

22 (3) The department shall by rule provide a method or methods of
23 apportioning or allocating gross income derived from sales of telephone
24 services taxed under this chapter or services defined as a retail sale
25 under RCW 82.04.050(3), if the gross proceeds of sales subject to tax
26 under this chapter do not fairly represent the extent of the taxpayer's
27 income attributable to this state. The rules shall be, so far as
28 feasible, consistent with the methods of apportionment contained in
29 this section and shall require the consideration of those facts,
30 circumstances, and apportionment factors as will result in an equitable
31 and constitutionally permissible division of the services.

32 **Sec. 205.** RCW 82.04.480 and 1975 1st ex.s. c 278 s 44 are each
33 amended to read as follows:

34 Every consignee, bailee, factor, or auctioneer having either actual
35 or constructive possession of tangible personal property, or having
36 possession of the documents of title thereto, with power to sell such
37 tangible personal property in his or its own name and actually so
38 selling, and every agent with power to sell a service defined as a

1 retail sale in the agent's own name and actually so selling, shall be
2 deemed the seller of such tangible personal property or service within
3 the meaning of this chapter; and further, the consignor, bailor,
4 principal, or owner shall be deemed a seller of such property or
5 service to the consignee, bailee, factor, ~~((or))~~ auctioneer, or agent.

6 The burden shall be upon the taxpayer in every case to establish
7 the fact that he or she is not engaged in the business of selling
8 tangible personal property or service but is acting merely as broker or
9 agent in promoting sales for a principal. Such claim will be allowed
10 only when the taxpayer's accounting records are kept in such manner as
11 the department ~~((of revenue))~~ shall by general ~~((regulation))~~ rule
12 provide.

13 NEW SECTION. Sec. 206. A new section is added to chapter 82.08
14 RCW to read as follows:

15 The tax levied by RCW 82.08.020 does not apply to sales of medical
16 services. For the purposes of this section, "medical services" means
17 services provided by physicians, dentists, chiropractors, optometrists,
18 podiatrists, and other health care practitioners; general medical and
19 surgical hospitals, psychiatric and substance abuse hospitals,
20 specialty hospitals, outpatient care centers, family planning centers,
21 outpatient mental health and substance abuse centers, health
22 maintenance organization medical centers, kidney dialysis centers,
23 freestanding ambulatory surgery and emergency centers, medical and
24 diagnostic laboratories, diagnostic imaging centers, home health care
25 providers, ambulance businesses, blood and organ banks, nursing care
26 facilities, residential mental retardation facilities, residential
27 mental health and substance abuse facilities, care facilities for the
28 elderly, continuing care retirement communities, and homes for the
29 elderly.

30 **Sec. 207.** RCW 82.08.020 and 1998 c 321 s 36 (Referendum Bill No.
31 49) are each amended to read as follows:

32 (1) There is levied and there shall be collected a tax on each
33 retail sale in this state equal to ~~((six and five tenths))~~ three
34 percent of the selling price.

35 (2) ~~((There is levied and there shall be collected an additional~~
36 ~~tax on each retail car rental, regardless of whether the vehicle is~~
37 ~~licensed in this state, equal to five and nine tenths percent of the~~

1 ~~selling price. The revenue collected under this subsection shall be~~
2 ~~deposited and distributed in the same manner as motor vehicle excise~~
3 ~~tax revenue collected under RCW 82.44.020(1).~~

4 ~~(3))~~ The ~~((taxes))~~ tax imposed under this chapter shall apply to
5 successive retail sales of the same property.

6 ~~((4))~~ (3) The rate~~((s))~~ provided in this section ~~((apply))~~
7 applies to taxes imposed under chapter 82.12 RCW as provided in RCW
8 82.12.020.

9 **Sec. 208.** RCW 82.08.0255 and 1998 c 176 s 4 are each amended to
10 read as follows:

11 (1) The tax levied by RCW 82.08.020 shall not apply to sales of~~((:~~

12 ~~(a) Motor vehicle fuel used in aircraft by the manufacturer thereof~~
13 ~~for research, development, and testing purposes; and~~

14 ~~(b))~~ motor vehicle and special fuel if~~((:~~

15 ~~(i) The fuel is purchased for the purpose of public transportation~~
16 ~~and the purchaser is entitled to a refund or an exemption under RCW~~
17 ~~82.36.275 or 82.38.080(3); or~~

18 ~~(ii) The fuel is purchased by a private, nonprofit transportation~~
19 ~~provider certified under chapter 81.66 RCW and the purchaser is~~
20 ~~entitled to a refund or an exemption under RCW 82.36.285 or~~
21 ~~82.38.080(1)(h); or~~

22 ~~(iii))~~ the fuel is taxable under chapter 82.36 or 82.38 RCW.

23 (2) Any person who has paid the tax imposed by RCW 82.08.020 on the
24 sale of special fuel delivered in this state shall be entitled to a
25 credit or refund of such tax with respect to fuel subsequently
26 established to have been actually transported and used outside this
27 state by persons engaged in interstate commerce. The tax shall be
28 claimed as a credit or refunded through the tax reports required under
29 RCW 82.38.150.

30 **Sec. 209.** RCW 82.08.090 and 1975 1st ex.s. c 278 s 49 are each
31 amended to read as follows:

32 (1) In the case of installment sales and leases of personal
33 property, the department ~~((of revenue, by regulation))~~ by rule, may
34 provide for the collection of taxes upon the installments of the
35 purchase price, or amount of rental, as of the time the same fall due.

36 (2) In the case of services defined as a retail sale under RCW
37 82.04.050(3), the seller may collect taxes based upon payments of the

1 purchase price, as of the time the payments are made, regardless of the
2 accounting method used by the seller or whether the sales were made
3 under an installment agreement.

4 NEW SECTION. **Sec. 210.** A new section is added to chapter 82.08
5 RCW to read as follows:

6 (1) A seller shall collect the retail sales tax on all sales of
7 services defined as retail sales under RCW 82.04.050(3) unless the
8 buyer provides the seller with a multistate use certificate. A buyer
9 shall not provide a multistate use certificate if the service relates
10 to or affects only a location, market, property, or individual in this
11 state.

12 (2) The department shall adopt rules providing the form and
13 information required to be on multistate use certificates. The
14 department shall establish by rule evidence by which a buyer may
15 demonstrate that the criteria in subsection (1) of this section apply.

16 (3) If a transaction involves both a service for which tax is
17 collectible under this section, and a service for which tax is not
18 collectible under this section, the charges shall be separately
19 identified and stated with respect to the collectible and
20 noncollectible portions of the transaction. Failure to separately
21 state the charges creates a presumption that tax is collectible upon
22 the entire transaction under this section.

23 (4) If the seller does not collect tax under this section, the
24 buyer shall remit any tax due with the buyer's next regularly scheduled
25 return.

26 **Sec. 211.** RCW 82.12.010 and 1994 c 93 s 1 are each amended to read
27 as follows:

28 For the purposes of this chapter:

29 (1)(a) "Value of the article used" shall mean the consideration,
30 whether money, credit, rights, or other property except trade-in
31 property of like kind, expressed in terms of money, paid or given or
32 contracted to be paid or given by the purchaser to the seller for the
33 article of tangible personal property, the use of which is taxable
34 under this chapter. The term includes, in addition to the
35 consideration paid or given or contracted to be paid or given, the
36 amount of any tariff or duty paid with respect to the importation of
37 the article used. In case the article used is acquired by lease or by

1 gift or is extracted, produced, or manufactured by the person using the
2 same or is sold under conditions wherein the purchase price does not
3 represent the true value thereof, the value of the article used shall
4 be determined as nearly as possible according to the retail selling
5 price at place of use of similar products of like quality and character
6 under such rules as the department of revenue may prescribe.

7 (b) In case the articles used are acquired by bailment, the value
8 of the use of the articles so used shall be in an amount representing
9 a reasonable rental for the use of the articles so bailed, determined
10 as nearly as possible according to the value of such use at the places
11 of use of similar products of like quality and character under such
12 rules as the department of revenue may prescribe. In case any such
13 articles of tangible personal property are used in respect to the
14 construction, repairing, decorating, or improving of, and which become
15 or are to become an ingredient or component of, new or existing
16 buildings or other structures under, upon, or above real property of or
17 for the United States, any instrumentality thereof, or a county or city
18 housing authority created pursuant to chapter 35.82 RCW, including the
19 installing or attaching of any such articles therein or thereto,
20 whether or not such personal property becomes a part of the realty by
21 virtue of installation, then the value of the use of such articles so
22 used shall be determined according to the retail selling price of such
23 articles, or in the absence of such a selling price, as nearly as
24 possible according to the retail selling price at place of use of
25 similar products of like quality and character or, in the absence of
26 either of these selling price measures, such value may be determined
27 upon a cost basis, in any event under such rules as the department of
28 revenue may prescribe.

29 (c) In the case of articles owned by a user engaged in business
30 outside the state which are brought into the state for no more than one
31 hundred eighty days in any period of three hundred sixty-five
32 consecutive days and which are temporarily used for business purposes
33 by the person in this state, the value of the article used shall be an
34 amount representing a reasonable rental for the use of the articles,
35 unless the person has paid tax under this chapter or chapter 82.08 RCW
36 upon the full value of the article used, as defined in (a) of this
37 subsection.

38 (d) In the case of articles manufactured or produced by the user
39 and used in the manufacture or production of products sold or to be

1 sold to the department of defense of the United States, the value of
2 the articles used shall be determined according to the value of the
3 ingredients of such articles.

4 (e) In the case of an article manufactured or produced for purposes
5 of serving as a prototype for the development of a new or improved
6 product, the value of the article used shall be determined by: (i) The
7 retail selling price of such new or improved product when first offered
8 for sale; or (ii) the value of materials incorporated into the
9 prototype in cases in which the new or improved product is not offered
10 for sale;

11 (2) "Value of the service used" means the consideration, whether
12 money, credit, rights, or other property, expressed in terms of money,
13 paid or given or contracted to be paid or given by the purchaser to the
14 seller for the service, the use of which is taxable under this chapter.
15 If the service is received by gift or under conditions wherein the
16 purchase price does not represent the true value of the service, the
17 value of the service used shall be determined as nearly as possible
18 according to the selling price at the place of use of similar services
19 under rules prescribed by the department of revenue;

20 (3) "Use," "used," "using," or "put to use" shall have their
21 ordinary meaning, and shall mean:

22 (a) With respect to tangible personal property, the first act
23 within this state by which the taxpayer takes or assumes dominion or
24 control over the article of tangible personal property (as a consumer),
25 and include installation, storage, withdrawal from storage, or any
26 other act preparatory to subsequent actual use or consumption within
27 this state; and

28 (b) With respect to a service defined as a retail sale, the receipt
29 by the taxpayer of any part of the benefit afforded the service;

30 (~~((3))~~) (4) "Taxpayer" and "purchaser" include all persons included
31 within the meaning of the word "buyer" and the word "consumer" as
32 defined in chapters 82.04 and 82.08 RCW;

33 (~~((4))~~) (5) "Retailer" means every seller as defined in RCW
34 82.08.010 and every person engaged in the business of selling tangible
35 personal property or services at retail and every person required to
36 collect from purchasers the tax imposed under this chapter;

37 (~~((5))~~) (6) The meaning ascribed to words and phrases in chapters
38 82.04 and 82.08 RCW, insofar as applicable, shall have full force and
39 effect with respect to taxes imposed under the provisions of this

1 chapter. "Consumer," in addition to the meaning ascribed to it in
2 chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any
3 person who distributes or displays, or causes to be distributed or
4 displayed, any article of tangible personal property, except
5 newspapers, the primary purpose of which is to promote the sale of
6 products or services.

7 **Sec. 212.** RCW 82.12.020 and 1999 c 358 s 9 are each amended to
8 read as follows:

9 (1) There is hereby levied and there shall be collected from every
10 person in this state a tax or excise for the privilege of using within
11 this state as a consumer: (a) Any article of tangible personal
12 property purchased at retail, or acquired by lease, gift, repossession,
13 or bailment, or extracted or produced or manufactured by the person so
14 using the same, or otherwise furnished to a person engaged in any
15 business taxable under RCW 82.04.280 (2) or (7); or (b) any canned
16 software, regardless of the method of delivery, but excluding canned
17 software that is either provided free of charge or is provided for
18 temporary use in viewing information, or both.

19 (2) This tax shall apply to the use of every service defined as a
20 retail sale in RCW 82.04.050(3)((~~a~~)) and the use of every article of
21 tangible personal property, including property acquired at a casual or
22 isolated sale, and including byproducts used by the manufacturer
23 thereof, except as hereinafter provided, irrespective of whether the
24 article or similar articles are manufactured or are available for
25 purchase within this state.

26 (3) Except as provided in RCW 82.12.0252, payment by one purchaser
27 or user of tangible personal property or service of the tax imposed by
28 chapter 82.08 or 82.12 RCW shall not have the effect of exempting any
29 other purchaser or user of the same property or service from the taxes
30 imposed by such chapters.

31 (4) The tax shall be levied and collected in an amount equal to the
32 value of the article used by the taxpayer multiplied by the rate in
33 effect for the retail sales tax under RCW 82.08.020.

34 NEW SECTION. **Sec. 213.** A new section is added to chapter 82.12
35 RCW to read as follows:

36 The provisions of this chapter do not apply with respect to the use
37 of medical services as defined in section 206 of this act.

1 **Sec. 214.** RCW 82.12.0252 and 1980 c 37 s 52 are each amended to
2 read as follows:

3 The provisions of this chapter shall not apply in respect to the
4 use of any article of tangible personal property or service defined as
5 a retail sale purchased at retail or acquired by lease, gift or
6 bailment if the sale thereof to, or the use thereof by, the present
7 user or ((his)) the user's bailor or donor has already been subjected
8 to the tax under chapter 82.08 or 82.12 RCW and such tax has been paid
9 by the present user or by his bailor or donor; or in respect to the use
10 of property acquired by bailment and such tax has once been paid based
11 on reasonable rental as determined by RCW 82.12.060 measured by the
12 value of the article at time of first use multiplied by the tax rate
13 imposed by chapter 82.08 or 82.12 RCW as of the time of first use; or
14 in respect to the use of any article of tangible personal property
15 acquired by bailment, if the property was acquired by a previous bailee
16 from the same bailor for use in the same general activity and such
17 original bailment was prior to June 9, 1961.

18 **Sec. 215.** RCW 82.12.0255 and 1980 c 37 s 55 are each amended to
19 read as follows:

20 The provisions of this chapter shall not apply in respect to the
21 use of any article of tangible personal property or any service defined
22 as a retail sale which the state is prohibited from taxing under the
23 Constitution of the state or under the Constitution or laws of the
24 United States.

25 **Sec. 216.** RCW 82.12.0256 and 1998 c 176 s 5 are each amended to
26 read as follows:

27 The provisions of this chapter shall not apply in respect to the
28 use of((÷

29 ~~(1) Motor vehicle fuel used in aircraft by the manufacturer thereof~~
30 ~~for research, development, and testing purposes; and~~

31 ~~(2) Special fuel purchased in this state upon which a refund is~~
32 ~~obtained as provided in RCW 82.38.180(2); and~~

33 ~~(3)) motor vehicle and special fuel if((÷~~

34 ~~(a) The fuel is used for the purpose of public transportation and~~
35 ~~the purchaser is entitled to a refund or an exemption under RCW~~
36 ~~82.36.275 or 82.38.080(3); or~~

1 ~~(b) The fuel is purchased by a private, nonprofit transportation~~
2 ~~provider certified under chapter 81.66 RCW and the purchaser is~~
3 ~~entitled to a refund or an exemption under RCW 82.36.285 or~~
4 ~~82.38.080(1)(h); or~~

5 ~~(e))~~ the fuel is taxable under chapter 82.36 or 82.38 RCW:
6 PROVIDED, That the use of motor vehicle and special fuel upon which a
7 refund of the applicable fuel tax is obtained shall not be exempt under
8 this ~~((subsection (3)(e)))~~ section, and the director of licensing shall
9 deduct from the amount of such tax to be refunded the amount of tax due
10 under this chapter and remit the same each month to the department of
11 revenue.

12 **Sec. 217.** RCW 82.12.035 and 1996 c 148 s 6 are each amended to
13 read as follows:

14 A credit shall be allowed against the taxes imposed by this chapter
15 upon the use of tangible personal property, or services taxable under
16 RCW 82.04.050(3)~~((a))~~, in the state of Washington in the amount that
17 the present user thereof or his or her bailor or donor has paid a
18 retail sales or use tax with respect to such property to any other
19 state of the United States, any political subdivision thereof, the
20 District of Columbia, and any foreign country or political subdivision
21 thereof, prior to the use of such property in Washington.

22 **Sec. 218.** RCW 82.12.060 and 1975 1st ex.s. c 278 s 54 are each
23 amended to read as follows:

24 (1) In the case of installment sales and leases of personal
25 property, the department, by ~~((regulation))~~ rule, may provide for the
26 collection of taxes upon the installments of the purchase price, or
27 amount of rental, as of the time the same fall due.

28 (2) In the case of property acquired by bailment, the department,
29 by ~~((regulation))~~ rule, may provide for payment of the tax due in
30 installments based on the reasonable rental for the property as
31 determined under RCW 82.12.010(1).

32 (3) In the case of services defined as a retail sale under RCW
33 82.04.050(3), the seller may collect taxes based upon payments of the
34 purchase price, as of the time the payments are made, regardless of the
35 accounting method used by the seller or whether the sales were made
36 under an installment agreement.

1 NEW SECTION. **Sec. 219.** A new section is added to chapter 82.12
2 RCW to read as follows:

3 (1) The entire value of a service used in this state is subject to
4 tax under this chapter, unless apportionment is allowed under this
5 section.

6 (2) A taxpayer maintaining places of business both within and
7 without this state may apportion the value of service used by the
8 taxpayer. The taxable portion of the value of the service equals the
9 full value of the service multiplied by an apportionment fraction, the
10 numerator of which is the property factor plus the payroll factor plus
11 the sales factor, and the denominator of which is three. The
12 taxpayer's sales, property, and payroll factors shall be calculated as
13 provided in RCW 82.56.010, except the department may alter the
14 components of the apportionment factors by rule to be consistent with
15 uniform rules for apportionment or allocation developed by the states
16 for particular industries.

17 (3) The department shall provide by rule for the time and manner of
18 recalculating the apportionment formula. The apportionment factor
19 shall not be required to be recalculated more often than annually.

20 (4) If the requirements of this section do not fairly represent the
21 extent of the taxpayer's use of a service in this state, the taxpayer
22 may petition for, or the department may require, in respect to all or
23 any part of the taxpayer's use of services, if reasonable:

24 (a) Separate accounting;

25 (b) The exclusion of any one or more of the factors;

26 (c) The inclusion of one or more additional factors that will
27 fairly represent the taxpayer's use of services in this state; or

28 (d) The employment of any other method to effectuate an equitable
29 allocation and apportionment of the taxpayer's use of services.

30 NEW SECTION. **Sec. 220.** The following acts or parts of acts are
31 each repealed:

32 (1) RCW 82.08.02525 (Exemptions--Sale of copied public records by
33 state and local agencies) and 1996 c 63 s 1;

34 (2) RCW 82.08.0253 (Exemptions--Sale and distribution of
35 newspapers) and 1980 c 37 s 21;

36 (3) RCW 82.08.02535 (Exemptions--Sales and distribution of
37 magazines or periodicals by subscription for fund-raising) and 1995 2nd
38 sp.s. c 8 s 1;

1 (4) RCW 82.08.02537 (Exemptions--Sales of academic transcripts) and
2 1996 c 272 s 2;

3 (5) RCW 82.08.0256 (Exemptions--Sale of the operating property of
4 a public utility to the state or a political subdivision) and 1980 c 37
5 s 24;

6 (6) RCW 82.08.02565 (Exemptions--Sales of machinery and equipment
7 for manufacturing, research and development, or a testing operation--
8 Labor and services for installation--Exemption certificate--Rules) and
9 1999 c 211 s 5, 1999 c 211 s 3, & 1998 c 330 s 1;

10 (7) RCW 82.08.02566 (Exemptions--Sales of tangible personal
11 property incorporated in prototype for parts, auxiliary equipment, and
12 aircraft modification--Limitations on yearly exemption) and 1997 c 302
13 s 1 & 1996 c 247 s 4;

14 (8) RCW 82.08.02567 (Exemptions--Sales of, or labor and services
15 for installation of, machinery and equipment used in generating
16 electricity using wind, sun, or landfill gas--Exemption certificate--
17 Rules) and 1999 c 358 s 4, 1998 c 309 s 1, & 1996 c 166 s 1;

18 (9) RCW 82.08.02568 (Exemptions--Sales of carbon and similar
19 substances that become an ingredient or component of anodes or cathodes
20 used in producing aluminum for sale) and 1996 c 170 s 1;

21 (10) RCW 82.08.02569 (Exemptions--Sales of tangible personal
22 property related to a building or structure that is an integral part of
23 a laser interferometer gravitational wave observatory) and 1996 c 113
24 s 1;

25 (11) RCW 82.08.0257 (Exemptions--Auction sales of tangible personal
26 property used in farming) and 1980 c 37 s 25;

27 (12) RCW 82.08.02573 (Exemptions--Sales by a nonprofit organization
28 for fund-raising activities) and 1998 c 336 s 3;

29 (13) RCW 82.08.0258 (Exemptions--Sales to federal corporations
30 providing aid and relief) and 1980 c 37 s 26;

31 (14) RCW 82.08.0259 (Exemptions--Sales of purebred livestock for
32 breeding--Cattle and milk cows) and 1980 c 37 s 27;

33 (15) RCW 82.08.0261 (Exemptions--Sales of personal property for use
34 connected with private or common carriers in interstate or foreign
35 commerce) and 1980 c 37 s 28;

36 (16) RCW 82.08.0262 (Exemptions--Sales of airplanes, locomotives,
37 railroad cars, or watercraft for use in interstate or foreign commerce
38 or outside the territorial waters of the state or airplanes sold to
39 United States government--Components thereof and of motor vehicles or

1 trailers used for constructing, repairing, cleaning, etc.--Labor and
2 services for constructing, repairing, cleaning, etc.) and 1998 c 311 s
3 5, 1994 c 43 s 1, & 1980 c 37 s 29;

4 (17) RCW 82.08.0263 (Exemptions--Sales of motor vehicles and
5 trailers for use in transporting persons or property in interstate or
6 foreign commerce) and 1998 c 311 s 6, 1995 c 63 s 1, & 1980 c 37 s 30;

7 (18) RCW 82.08.0264 (Exemptions--Sales of motor vehicles, trailers,
8 or campers to nonresidents for use outside the state) and 1980 c 37 s
9 31;

10 (19) RCW 82.08.0265 (Exemptions--Sales to nonresidents of tangible
11 personal property which becomes a component of property of the
12 nonresident by installing, repairing, etc.--Labor and services for
13 installing, repairing, etc.) and 1980 c 37 s 32;

14 (20) RCW 82.08.0266 (Exemptions--Sales of watercraft to
15 nonresidents for use outside the state) and 1999 c 358 s 5 & 1980 c 37
16 s 33;

17 (21) RCW 82.08.02665 (Exemptions--Sales of watercraft, vessels to
18 residents of foreign countries) and 1999 c 358 s 6 & 1993 c 119 s 1;

19 (22) RCW 82.08.0267 (Exemptions--Sales of poultry for producing
20 poultry and poultry products for sale) and 1980 c 37 s 34;

21 (23) RCW 82.08.0268 (Exemptions--Sales of machinery and implements,
22 and related parts and labor, for farming to nonresidents for use
23 outside the state) and 1998 c 167 s 1 & 1980 c 37 s 35;

24 (24) RCW 82.08.0269 (Exemptions--Sales for use in states,
25 territories, and possessions of the United States which are not
26 contiguous to any other state) and 1980 c 37 s 36;

27 (25) RCW 82.08.0271 (Exemptions--Sales to municipal corporations,
28 the state, and political subdivisions of tangible personal property,
29 labor and services on watershed protection and flood prevention
30 contracts) and 1980 c 37 s 37;

31 (26) RCW 82.08.0272 (Exemptions--Sales of semen for artificial
32 insemination of livestock) and 1980 c 37 s 38;

33 (27) RCW 82.08.0273 (Exemptions--Sales to nonresidents of tangible
34 personal property for use outside the state--Proof of nonresident
35 status--Penalties) and 1993 c 444 s 1, 1988 c 96 s 1, 1982 1st ex.s. c
36 5 s 1, & 1980 c 37 s 39;

37 (28) RCW 82.08.0274 (Exemptions--Sales of form lumber to person
38 engaged in constructing, repairing, etc., structures for consumers) and
39 1980 c 37 s 40;

1 (29) RCW 82.08.02745 (Exemptions--Charges for labor and services or
2 sales of tangible personal property related to agricultural employee
3 housing--Exemption certificate--Rules) and 1997 c 438 s 1 & 1996 c 117
4 s 1;

5 (30) RCW 82.08.0275 (Exemptions--Sales of and labor and service
6 charges for mining, sorting, crushing, etc., of sand, gravel, and rock
7 from county or city quarry for public road purposes) and 1980 c 37 s
8 41;

9 (31) RCW 82.08.0276 (Exemptions--Sales of wearing apparel for use
10 only as a sample for display for sale) and 1980 c 37 s 42;

11 (32) RCW 82.08.0277 (Exemptions--Sales of pollen) and 1980 c 37 s
12 43;

13 (33) RCW 82.08.0278 (Exemptions--Sales between political
14 subdivisions resulting from annexation or incorporation) and 1980 c 37
15 s 44;

16 (34) RCW 82.08.0279 (Exemptions--Renting or leasing of motor
17 vehicles and trailers to a nonresident for use in the transportation of
18 persons or property across state boundaries) and 1980 c 37 s 45;

19 (35) RCW 82.08.02795 (Exemptions--Sales to free hospitals) and 1993
20 c 205 s 1;

21 (36) RCW 82.08.0282 (Exemptions--Sales of returnable containers for
22 beverages and foods) and 1980 c 37 s 47;

23 (37) RCW 82.08.0285 (Exemptions--Sales of ferry vessels to the
24 state or local governmental units--Components thereof--Labor and
25 service charges) and 1980 c 37 s 50;

26 (38) RCW 82.08.0287 (Exemptions--Sales of passenger motor vehicles
27 as ride-sharing vehicles) and 1996 c 244 s 4, 1995 c 274 s 2, 1993 c
28 488 s 2, & 1980 c 166 s 1;

29 (39) RCW 82.08.02875 (Exemptions--Vehicle parking charges subject
30 to tax at stadium and exhibition center) and 1997 c 220 s 203;

31 (40) RCW 82.08.0288 (Exemptions--Lease of certain irrigation
32 equipment) and 1983 1st ex.s. c 55 s 5;

33 (41) RCW 82.08.0289 (Exemptions--Certain network telephone service)
34 and 1983 2nd ex.s. c 3 s 30;

35 (42) RCW 82.08.0291 (Exemptions--Sales of amusement and recreation
36 services or personal services by nonprofit youth organization--Local
37 government physical fitness classes) and 1994 c 85 s 1 & 1981 c 74 s 2;

1 (43) RCW 82.08.02915 (Exemptions--Sales used by health or social
2 welfare organizations for alternative housing for youth in crisis) and
3 1998 c 183 s 1, 1997 c 386 s 56, & 1995 c 346 s 1;
4 (44) RCW 82.08.02917 (Youth in crisis--Definition--Limited purpose)
5 and 1995 c 346 s 3;
6 (45) RCW 82.08.0294 (Exemptions--Sales of feed for cultivating or
7 raising fish for sale) and 1985 c 148 s 3;
8 (46) RCW 82.08.0296 (Exemptions--Sales of feed consumed by
9 livestock at a public livestock market) and 1986 c 265 s 1;
10 (47) RCW 82.08.0298 (Exemptions--Sales of diesel fuel for use in
11 operating watercraft in commercial deep sea fishing or commercial
12 passenger fishing boat operations outside the state) and 1987 c 494 s
13 1;
14 (48) RCW 82.08.0299 (Exemptions--Emergency lodging for homeless
15 persons--Conditions) and 1988 c 61 s 1;
16 (49) RCW 82.08.031 (Exemptions--Sales to artistic or cultural
17 organizations of certain objects acquired for exhibition or
18 presentation) and 1981 c 140 s 4;
19 (50) RCW 82.08.0311 (Exemptions--Sales of materials and supplies
20 used in packing horticultural products) and 1988 c 68 s 1;
21 (51) RCW 82.08.0315 (Exemptions--Rentals or sales related to motion
22 picture or video productions--Exceptions--Certificate) and 1997 c 61 s
23 1 & 1995 2nd sp.s. c 5 s 1;
24 (52) RCW 82.08.036 (Exemptions--Vehicle battery core deposits or
25 credits--Replacement vehicle tire fees--"Core deposits or credits"
26 defined) and 1989 c 431 s 45;
27 (53) RCW 82.08.810 (Exemptions--Air pollution control facilities at
28 a thermal electric generation facility--Exceptions--Exemption
29 certificate--Payments on cessation of operation) and 1997 c 368 s 2;
30 (54) RCW 82.08.811 (Exemptions--Coal used at coal-fired thermal
31 electric generation facility--Application--Demonstration of progress in
32 air pollution control--Notice of emissions violations--Reapplication--
33 Payments on cessation of operation) and 1997 c 368 s 4;
34 (55) RCW 82.08.812 (Exemptions--Coal used at coal-fired thermal
35 electric generation facility--Forfeiture upon use of nonlocal coal
36 sources--Reinstatement) and 1997 c 368 s 5;
37 (56) RCW 82.08.820 (Exemptions--Remittance--Warehouse and grain
38 elevators and distribution centers--Material-handling and racking

1 equipment--Construction of warehouse or elevator--Information sheet--
2 Rules--Records--Exceptions) and 1997 c 450 s 2;
3 (57) RCW 82.08.830 (Exemptions--Sales at camp or conference center
4 by nonprofit organization) and 1997 c 388 s 2;
5 (58) RCW 82.08.832 (Exemptions--Sales of gun safes) and 1998 c 178
6 s 1;
7 (59) RCW 82.12.02525 (Exemptions--Sale of copied public records by
8 state and local agencies) and 1996 c 63 s 2;
9 (60) RCW 82.12.02545 (Exemption--Use of naval aircraft training
10 equipment transferred due to base closure) and 1995 c 128 s 1;
11 (61) RCW 82.12.02565 (Exemptions--Machinery and equipment used for
12 manufacturing, research and development, or a testing operation) and
13 1999 c 211 s 6, 1998 c 330 s 2, 1996 c 247 s 3, & 1995 1st sp.s. c 3 s
14 3;
15 (62) RCW 82.12.02566 (Exemptions--Use of tangible personal property
16 incorporated in prototype for aircraft parts, auxiliary equipment, and
17 aircraft modification--Limitations on yearly exemption) and 1997 c 302
18 s 2 & 1996 c 247 s 5;
19 (63) RCW 82.12.02567 (Exemptions--Use of machinery and equipment
20 used in generating electricity using wind, sun, or landfill gas) and
21 1999 c 358 s 10, 1998 c 309 s 2, & 1996 c 166 s 2;
22 (64) RCW 82.12.02568 (Exemptions--Use of carbon and similar
23 substances that become an ingredient or component of anodes or cathodes
24 used in producing aluminum for sale) and 1996 c 170 s 2;
25 (65) RCW 82.12.02569 (Exemptions--Use of tangible personal property
26 related to a building or structure that is an integral part of a laser
27 interferometer gravitational wave observatory) and 1996 c 113 s 2;
28 (66) RCW 82.12.0257 (Exemptions--Use of tangible personal property
29 of the operating property of a public utility by state or political
30 subdivision) and 1980 c 37 s 57;
31 (67) RCW 82.12.0258 (Exemptions--Use of tangible personal property
32 previously used in farming and purchased from farmer at auction) and
33 1980 c 37 s 58;
34 (68) RCW 82.12.0259 (Exemptions--Use of tangible personal property
35 by federal corporations providing aid and relief) and 1980 c 37 s 59;
36 (69) RCW 82.12.02595 (Exemptions--Use of donated tangible personal
37 property by nonprofit organization or governmental entity or for
38 purpose donated--Use of related property) and 1998 c 182 s 1 & 1995 c
39 201 s 1;

1 (70) RCW 82.12.0261 (Exemptions--Use of purebred livestock for
2 breeding--Cattle and milk cows) and 1980 c 37 s 60;

3 (71) RCW 82.12.0262 (Exemptions--Use of poultry for producing
4 poultry and poultry products for sale) and 1980 c 37 s 61;

5 (72) RCW 82.12.0263 (Exemptions--Use of fuel by extractor or
6 manufacturer thereof) and 1980 c 37 s 62;

7 (73) RCW 82.12.0264 (Exemptions--Use of dual-controlled motor
8 vehicles by school for driver training) and 1980 c 37 s 63;

9 (74) RCW 82.12.0265 (Exemptions--Use by bailee of tangible personal
10 property consumed in research, development, etc., activities) and 1980
11 c 37 s 64;

12 (75) RCW 82.12.0267 (Exemptions--Use of semen in artificial
13 insemination of livestock) and 1980 c 37 s 66;

14 (76) RCW 82.12.0268 (Exemptions--Use of form lumber by persons
15 engaged in constructing, repairing, etc., structures for consumers) and
16 1980 c 37 s 67;

17 (77) RCW 82.12.02685 (Exemptions--Use of tangible personal property
18 related to agricultural employee housing) and 1997 c 438 s 2 & 1996 c
19 117 s 2;

20 (78) RCW 82.12.0269 (Exemptions--Use of sand, gravel, or rock to
21 extent of labor and service charges for mining, sorting, crushing,
22 etc., thereof from county or city quarry for public road purposes) and
23 1980 c 37 s 68;

24 (79) RCW 82.12.0271 (Exemptions--Use of wearing apparel only as a
25 sample for display for sale) and 1980 c 37 s 69;

26 (80) RCW 82.12.0272 (Exemptions--Use of tangible personal property
27 in single trade shows) and 1980 c 37 s 70;

28 (81) RCW 82.12.0273 (Exemptions--Use of pollen) and 1980 c 37 s 71;

29 (82) RCW 82.12.0274 (Exemptions--Use of tangible personal property
30 by political subdivision resulting from annexation or incorporation)
31 and 1980 c 37 s 72;

32 (83) RCW 82.12.02745 (Exemptions--Use by free hospitals of certain
33 items) and 1993 c 205 s 2;

34 (84) RCW 82.12.0276 (Exemptions--Use of returnable containers for
35 beverages and foods) and 1980 c 37 s 74;

36 (85) RCW 82.12.0279 (Exemptions--Use of ferry vessels by the state
37 or local governmental units--Components thereof) and 1980 c 37 s 77;

1 (86) RCW 82.12.0282 (Exemptions--Use of vans as ride-sharing
2 vehicles) and 1999 c 358 s 11, 1996 c 88 s 4, 1993 c 488 s 4, & 1980 c
3 166 s 2;

4 (87) RCW 82.12.0283 (Exemptions--Use of certain irrigation
5 equipment) and 1983 1st ex.s. c 55 s 6;

6 (88) RCW 82.12.0284 (Exemptions--Use of computers or computer
7 components, accessories, or software donated to schools or colleges)
8 and 1983 1st ex.s. c 55 s 7;

9 (89) RCW 82.12.02915 (Exemptions--Use of items by health or social
10 welfare organizations for alternative housing for youth in crisis) and
11 1998 c 183 s 2, 1997 c 386 s 57, & 1995 c 346 s 2;

12 (90) RCW 82.12.02917 (Exemptions--Use of amusement and recreation
13 services by nonprofit youth organization) and 1999 c 358 s 7;

14 (91) RCW 82.12.0294 (Exemptions--Use of feed for cultivating or
15 raising fish for sale) and 1985 c 148 s 4;

16 (92) RCW 82.12.0296 (Exemptions--Use of feed consumed by livestock
17 at a public livestock market) and 1986 c 265 s 2;

18 (93) RCW 82.12.0298 (Exemptions--Use of diesel fuel in operating
19 watercraft in commercial deep sea fishing or commercial passenger
20 fishing boat operations outside the state) and 1987 c 494 s 2;

21 (94) RCW 82.12.031 (Exemptions--Use by artistic or cultural
22 organizations of certain objects) and 1981 c 140 s 5;

23 (95) RCW 82.12.0311 (Exemptions--Use of materials and supplies in
24 packing horticultural products) and 1988 c 68 s 2;

25 (96) RCW 82.12.0315 (Exemptions--Rental or sales related to motion
26 picture or video productions--Exceptions) and 1995 2nd sp.s. c 5 s 2;

27 (97) RCW 82.12.0345 (Exemptions--Use of newspapers) and 1994 c 124
28 s 11;

29 (98) RCW 82.12.0347 (Exemptions--Use of academic transcripts) and
30 1996 c 272 s 3;

31 (99) RCW 82.12.038 (Exemptions--Vehicle battery core deposits or
32 credits--Replacement vehicle tire fees--"Core deposits or credits"
33 defined) and 1989 c 431 s 46;

34 (100) RCW 82.12.800 (Exemptions--Uses of vessel, vessel's trailer
35 by manufacturer) and 1997 c 293 s 1;

36 (101) RCW 82.12.801 (Exemptions--Uses of vessel, vessel's trailer
37 by dealer) and 1997 c 293 s 2;

1 (102) RCW 82.12.802 (Vessels held in inventory by dealer or
2 manufacturer--Tax on personal use--Documentation--Rules) and 1997 c 293
3 s 3;

4 (103) RCW 82.12.810 (Exemptions--Air pollution control facilities
5 at a thermal electric generation facility--Exceptions--Payments on
6 cessation of operation) and 1997 c 368 s 3;

7 (104) RCW 82.12.811 (Exemptions--Coal used at coal-fired thermal
8 electric generation facility--Application--Demonstration of progress in
9 air pollution control--Notice of emissions violations-- Reapplication--
10 Payments on cessation of operation) and 1997 c 368 s 6;

11 (105) RCW 82.12.812 (Exemptions--Coal used at coal-fired thermal
12 electric generation facility--Forfeiture upon use of nonlocal coal
13 sources--Reinstatement) and 1997 c 368 s 7;

14 (106) RCW 82.12.820 (Exemptions--Remittance--Warehouse and grain
15 elevators and distribution centers--Material-handling and racking
16 equipment--Construction of warehouse or elevator--Information sheet--
17 Rules--Records--Exceptions) and 1997 c 450 s 3; and

18 (107) RCW 82.12.832 (Exemptions--Use of gun safes) and 1998 c 178
19 s 2.

20 **PART III**

21 **BUSINESS AND OCCUPATION TAX**

22 **Sec. 301.** RCW 82.04.230 and 1993 sp.s. c 25 s 101 are each amended
23 to read as follows:

24 Upon every person engaging within this state in business as an
25 extractor; as to such persons the amount of the tax with respect to
26 such business shall be equal to the value of the products, including
27 byproducts, extracted for sale or for commercial or industrial use,
28 multiplied by the rate of (~~0.484~~) 0.33 percent.

29 The measure of the tax is the value of the products, including
30 byproducts, so extracted, regardless of the place of sale or the fact
31 that deliveries may be made to points outside the state.

32 **Sec. 302.** RCW 82.04.240 and 1998 c 312 s 3 are each amended to
33 read as follows:

34 Upon every person except persons taxable under RCW 82.04.260 (1),
35 (2), (4), (5), or (6) engaging within this state in business as a
36 manufacturer; as to such persons the amount of the tax with respect to

1 such business shall be equal to the value of the products, including
2 byproducts, manufactured, multiplied by the rate of (~~0.484~~) 0.33
3 percent.

4 The measure of the tax is the value of the products, including
5 byproducts, so manufactured regardless of the place of sale or the fact
6 that deliveries may be made to points outside the state.

7 **Sec. 303.** RCW 82.04.250 and 1998 c 312 s 4 are each amended to
8 read as follows:

9 (EFFECTIVE UNTIL JULY 1, 2001.) (1) Upon every person except
10 persons taxable under RCW 82.04.260(5) or subsection (2) of this
11 section engaging within this state in the business of making sales at
12 retail, as to such persons, the amount of tax with respect to such
13 business shall be equal to the gross proceeds of sales of the business,
14 multiplied by the rate of (~~0.471~~) 0.33 percent.

15 (2) Upon every person engaging within this state in the business of
16 making sales at retail that are exempt from the tax imposed under
17 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
18 82.08.0263, as to such persons, the amount of tax with respect to such
19 business shall be equal to the gross proceeds of sales of the business,
20 multiplied by the rate of (~~0.484~~) 0.33 percent.

21 **Sec. 304.** RCW 82.04.250 and 1998 c 343 s 5 and 1998 c 312 s 4 are
22 each reenacted and amended to read as follows:

23 (EFFECTIVE JULY 1, 2001.) (1) Upon every person except persons
24 taxable under RCW 82.04.260(5), 82.04.272, or subsection (2) of this
25 section engaging within this state in the business of making sales at
26 retail, as to such persons, the amount of tax with respect to such
27 business shall be equal to the gross proceeds of sales of the business,
28 multiplied by the rate of (~~0.471~~) 0.33 percent.

29 (2) Upon every person engaging within this state in the business of
30 making sales at retail that are exempt from the tax imposed under
31 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
32 82.08.0263, as to such persons, the amount of tax with respect to such
33 business shall be equal to the gross proceeds of sales of the business,
34 multiplied by the rate of (~~0.484~~) 0.33 percent.

35 **Sec. 305.** RCW 82.04.255 and 1997 c 7 s 1 are each amended to read
36 as follows:

1 Upon every person engaging within the state as a real estate
2 broker; as to such persons, the amount of the tax with respect to such
3 business shall be equal to the gross income of the business, multiplied
4 by the rate of (~~1.5~~) 0.33 percent.

5 The measure of the tax on real estate commissions earned by the
6 real estate broker shall be the gross commission earned by the
7 particular real estate brokerage office including that portion of the
8 commission paid to salesmen or associate brokers in the same office on
9 a particular transaction: PROVIDED, HOWEVER, That where a real estate
10 commission is divided between an originating brokerage office and a
11 cooperating brokerage office on a particular transaction, each
12 brokerage office shall pay the tax only upon their respective shares of
13 said commission: AND PROVIDED FURTHER, That where the brokerage office
14 has paid the tax as provided herein, salesmen or associate brokers
15 within the same brokerage office shall not be required to pay a similar
16 tax upon the same transaction.

17 **Sec. 306.** RCW 82.04.260 and 1998 c 312 s 5 and 1998 c 311 s 2 are
18 each reenacted and amended to read as follows:

19 (1) Upon every person engaging within this state in the business of
20 manufacturing:

21 (a) Wheat into flour, barley into pearl barley, soybeans into
22 soybean oil, canola into canola oil, canola meal, or canola byproducts,
23 or sunflower seeds into sunflower oil; as to such persons the amount of
24 tax with respect to such business shall be equal to the value of the
25 flour, pearl barley, oil, canola meal, or canola byproduct
26 manufactured, multiplied by the rate of 0.138 percent;

27 (b) Seafood products which remain in a raw, raw frozen, or raw
28 salted state at the completion of the manufacturing by that person; as
29 to such persons the amount of tax with respect to such business shall
30 be equal to the value of the products manufactured, multiplied by the
31 rate of 0.138 percent; and

32 (c) By canning, preserving, freezing, processing, or dehydrating
33 fresh fruits and vegetables, or selling at wholesale fresh fruits and
34 vegetables canned, preserved, frozen, processed, or dehydrated by the
35 seller and sold to purchasers who transport in the ordinary course of
36 business the goods out of this state; as to such persons the amount of
37 tax with respect to such business shall be equal to the value of the
38 products canned, preserved, frozen, processed, or dehydrated multiplied

1 by the rate of 0.138 percent. As proof of sale to a person who
2 transports in the ordinary course of business goods out of this state,
3 the seller shall annually provide a statement in a form prescribed by
4 the department and retain the statement as a business record.

5 (2) Upon every person engaging within this state in the business of
6 splitting or processing dried peas; as to such persons the amount of
7 tax with respect to such business shall be equal to the value of the
8 peas split or processed, multiplied by the rate of 0.138 percent.

9 (3) Upon every nonprofit corporation and nonprofit association
10 engaging within this state in research and development, as to such
11 corporations and associations, the amount of tax with respect to such
12 activities shall be equal to the gross income derived from such
13 activities multiplied by the rate of ~~((0.484))~~ 0.33 percent.

14 (4) Upon every person engaging within this state in the business of
15 slaughtering, breaking and/or processing perishable meat products
16 and/or selling the same at wholesale only and not at retail; as to such
17 persons the tax imposed shall be equal to the gross proceeds derived
18 from such sales multiplied by the rate of 0.138 percent.

19 (5) Upon every person engaging within this state in the business of
20 making sales, at retail or wholesale, of nuclear fuel assemblies
21 manufactured by that person, as to such persons the amount of tax with
22 respect to such business shall be equal to the gross proceeds of sales
23 of the assemblies multiplied by the rate of 0.275 percent.

24 (6) Upon every person engaging within this state in the business of
25 manufacturing nuclear fuel assemblies, as to such persons the amount of
26 tax with respect to such business shall be equal to the value of the
27 products manufactured multiplied by the rate of 0.275 percent.

28 (7) Upon every person engaging within this state in the business of
29 acting as a travel agent or tour operator; as to such persons the
30 amount of the tax with respect to such activities shall be equal to the
31 gross income derived from such activities multiplied by the rate of
32 0.275 percent.

33 (8) Upon every person engaging within this state in business as an
34 international steamship agent, international customs house broker,
35 international freight forwarder, vessel and/or cargo charter broker in
36 foreign commerce, and/or international air cargo agent; as to such
37 persons the amount of the tax with respect to only international
38 activities shall be equal to the gross income derived from such
39 activities multiplied by the rate of 0.275 percent.

1 (9) Upon every person engaging within this state in the business of
2 stevedoring and associated activities pertinent to the movement of
3 goods and commodities in waterborne interstate or foreign commerce; as
4 to such persons the amount of tax with respect to such business shall
5 be equal to the gross proceeds derived from such activities multiplied
6 by the rate of 0.275 percent. Persons subject to taxation under this
7 subsection shall be exempt from payment of taxes imposed by chapter
8 82.16 RCW for that portion of their business subject to taxation under
9 this subsection. Stevedoring and associated activities pertinent to
10 the conduct of goods and commodities in waterborne interstate or
11 foreign commerce are defined as all activities of a labor, service or
12 transportation nature whereby cargo may be loaded or unloaded to or
13 from vessels or barges, passing over, onto or under a wharf, pier, or
14 similar structure; cargo may be moved to a warehouse or similar holding
15 or storage yard or area to await further movement in import or export
16 or may move to a consolidation freight station and be stuffed,
17 unstuffed, containerized, separated or otherwise segregated or
18 aggregated for delivery or loaded on any mode of transportation for
19 delivery to its consignee. Specific activities included in this
20 definition are: Wharfage, handling, loading, unloading, moving of
21 cargo to a convenient place of delivery to the consignee or a
22 convenient place for further movement to export mode; documentation
23 services in connection with the receipt, delivery, checking, care,
24 custody and control of cargo required in the transfer of cargo;
25 imported automobile handling prior to delivery to consignee; terminal
26 stevedoring and incidental vessel services, including but not limited
27 to plugging and unplugging refrigerator service to containers,
28 trailers, and other refrigerated cargo receptacles, and securing ship
29 hatch covers.

30 (10) Upon every person engaging within this state in the business
31 of disposing of low-level waste, as defined in RCW 43.145.010; as to
32 such persons the amount of the tax with respect to such business shall
33 be equal to the gross income of the business, excluding any fees
34 imposed under chapter 43.200 RCW, multiplied by the rate of ((3-3))
35 0.33 percent.

36 If the gross income of the taxpayer is attributable to activities
37 both within and without this state, the gross income attributable to
38 this state shall be determined in accordance with the methods of
39 apportionment required under RCW 82.04.460.

1 (11) Upon every person engaging within this state as an insurance
2 agent, insurance broker, or insurance solicitor licensed under chapter
3 48.17 RCW; as to such persons, the amount of the tax with respect to
4 such licensed activities shall be equal to the gross income of such
5 business multiplied by the rate of (~~0.484~~) 0.33 percent.

6 (12) Upon every person engaging within this state in business as a
7 hospital, as defined in chapter 70.41 RCW, that is operated as a
8 nonprofit corporation or by the state or any of its political
9 subdivisions, as to such persons, the amount of tax with respect to
10 such activities shall be equal to the gross income of the business
11 multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5
12 percent thereafter. The moneys collected under this subsection shall
13 be deposited in the health services account created under RCW
14 43.72.900.

15 **Sec. 307.** RCW 82.04.263 and 1996 c 112 s 3 are each amended to
16 read as follows:

17 Upon every person engaging within this state in the business of
18 cleaning up for the United States, or its instrumentalities,
19 radioactive waste and other byproducts of weapons production and
20 nuclear research and development; as to such persons the amount of the
21 tax with respect to such business shall be equal to the value of the
22 gross income of the business multiplied by the rate of (~~0.471~~) 0.33
23 percent.

24 For the purposes of this chapter, "cleaning up radioactive waste
25 and other byproducts of weapons production and nuclear research and
26 development" means the activities of handling, storing, treating,
27 immobilizing, stabilizing, or disposing of radioactive waste,
28 radioactive tank waste and capsules, nonradioactive hazardous solid and
29 liquid wastes, or spent nuclear fuel; spent nuclear fuel conditioning;
30 removal of contamination in soils and ground water; decontamination and
31 decommissioning of facilities; and activities integral and necessary to
32 the direct performance of cleanup.

33 **Sec. 308.** RCW 82.04.2635 and 1998 c 308 s 3 are each amended to
34 read as follows:

35 (1) Upon every person engaging within this state in the business of
36 environmental remedial action, the amount of tax with respect to such

1 business shall be equal to the value of the gross income of the
2 business multiplied by the rate (~~(0.471)~~) of 0.33 percent.

3 (2) For purposes of this chapter, "environmental remedial action"
4 means:

5 (a) Those services related to the identification, investigation, or
6 cleanup arising out of the release or threatened release of hazardous
7 substances that are conducted under contract with the department of
8 ecology or under an enforcement order, agreed order, or consent decree
9 executed by the department of ecology, or those services, when
10 evaluated as a whole, that are the substantial equivalent of a
11 department of ecology-conducted or supervised remedial action under the
12 model toxics control act, chapter 70.105D RCW; or

13 (b) Those services related to the identification, investigation, or
14 cleanup of a facility that are conducted under contract with the United
15 States environmental protection agency or under an order or consent
16 decree executed by the United States environmental protection agency,
17 or that are consistent with the national contingency plan adopted under
18 the comprehensive environmental response compensation and liability
19 act, 42 U.S.C. Sec. 9605 as it exists on July 1, 1998, and those
20 services are conducted at facilities that are included on the national
21 priorities list adopted under 42 U.S.C. Sec. 9605 as it exists on July
22 1, 1998, or at facilities subject to a removal action authorized under
23 42 U.S.C. Sec. 9604 as it exists on July 1, 1998.

24 (3) A site is eligible for environmental remedial action upon
25 submittal, via certified mail to the department of ecology and the
26 department of revenue, of the following:

27 (a) A certification from the owner, the department of ecology, or
28 the United States environmental protection agency, containing the
29 following information:

30 (i) The location of the site, shown on a map and identified by
31 parcel number or numbers and street address;

32 (ii) The name and address and daytime phone number of a contact
33 person;

34 (iii) A statement that the proposed environmental remedial actions
35 will be conducted by the department of ecology or its authorized
36 contractor under chapter 70.105D RCW or will be substantially
37 equivalent to a department of ecology-conducted or supervised remedial
38 action under the model toxics control act, chapter 70.105D RCW, or will
39 be conducted by the United States environmental protection agency or

1 its authorized contractor or will be consistent with the national
2 contingency plan under 42 U.S.C. Sec. 9605 as it exists on July 1,
3 1998; and

4 (iv) A description of the proposed environmental remedial actions
5 to be taken; and

6 (b)(i) A certification from a certified underground storage tank
7 service supervisor as authorized in chapter 90.76 RCW, from a
8 professional engineer licensed in the state of Washington, or from an
9 environmental professional who subscribes to a code of professional
10 responsibility administered by a recognized organization representing
11 such professions containing the following information:

12 (A) Confirmation that an environmental remedial action as defined
13 in this section is to be conducted at the site;

14 (B) The location of the site, shown on a map and identified by
15 parcel number or numbers and street address, and the approximate
16 location of the proposed environmental remedial action; and

17 (C) The name, address, telephone number, and uniform business
18 identifier of the person providing the certification; or

19 (ii) If applicable to the site, a copy of an enforcement order,
20 agreed order, or consent decree executed by the department of ecology
21 or the United States environmental protection agency.

22 (4) The department of revenue shall respond in writing to the owner
23 within thirty days confirming receipt of the certification, or
24 certifications, of eligibility.

25 (5) The owner shall provide a copy of the confirmation from the
26 department of revenue to each person who renders environmental remedial
27 action at the site. Each person who renders such action shall
28 separately state the charges for labor and services associated with the
29 environmental remedial action.

30 (6) Upon completion of the environmental remedial action, the owner
31 shall submit to the department of ecology a report documenting the
32 environmental remedial actions conducted at the site and documenting
33 compliance with the requirements of chapter 70.105D RCW.

34 (7) In addition to any other penalties, a person who files a
35 certificate with the department of ecology or the department of revenue
36 that contains falsehoods or misrepresentations are subject to penalties
37 authorized under chapter 18.43 or 90.76 RCW or RCW 9A.76.175. Also, a
38 person who improperly reports the person's tax class shall be assessed
39 a penalty of fifty percent of the tax due, in addition to other taxes

1 or penalties, together with interest. The department of revenue shall
2 waive the penalty imposed under this section if it finds that the
3 falsehoods or misrepresentations or improper reporting of the tax
4 classification was due to circumstances beyond the control of the
5 person.

6 (8) This section expires July 1, 2003.

7 **Sec. 309.** RCW 82.04.270 and 1999 c 358 s 1 are each amended to
8 read as follows:

9 (EFFECTIVE UNTIL JULY 1, 2001.) Upon every person except persons
10 taxable under RCW 82.04.260(5) engaging within this state in the
11 business of making sales at wholesale; as to such persons the amount of
12 tax with respect to such business shall be equal to the gross proceeds
13 of sales of such business multiplied by the rate of (~~0.484~~) 0.33
14 percent.

15 **Sec. 310.** RCW 82.04.270 and 1999 c 358 s 2 are each amended to
16 read as follows:

17 (EFFECTIVE JULY 1, 2001.) Upon every person except persons taxable
18 under RCW 82.04.260(5) or 82.04.272 engaging within this state in the
19 business of making sales at wholesale; as to such persons the amount of
20 tax with respect to such business shall be equal to the gross proceeds
21 of sales of such business multiplied by the rate of (~~0.484~~) 0.33
22 percent.

23 **Sec. 311.** RCW 82.04.280 and 1994 c 112 s 1 are each amended to
24 read as follows:

25 (EFFECTIVE UNTIL JULY 1, 2001.) Upon every person engaging within
26 this state in the business of: (1) Printing, and of publishing
27 newspapers, periodicals, or magazines; (2) building, repairing or
28 improving any street, place, road, highway, easement, right of way,
29 mass public transportation terminal or parking facility, bridge,
30 tunnel, or trestle which is owned by a municipal corporation or
31 political subdivision of the state or by the United States and which is
32 used or to be used, primarily for foot or vehicular traffic including
33 mass transportation vehicles of any kind and including any
34 readjustment, reconstruction or relocation of the facilities of any
35 public, private or cooperatively owned utility or railroad in the
36 course of such building, repairing or improving, the cost of which

1 readjustment, reconstruction, or relocation, is the responsibility of
2 the public authority whose street, place, road, highway, easement,
3 right of way, mass public transportation terminal or parking facility,
4 bridge, tunnel, or trestle is being built, repaired or improved; (3)
5 extracting for hire or processing for hire; (4) operating a cold
6 storage warehouse or storage warehouse, but not including the rental of
7 cold storage lockers; (5) representing and performing services for fire
8 or casualty insurance companies as an independent resident managing
9 general agent licensed under the provisions of RCW 48.05.310; (6) radio
10 and television broadcasting, excluding network, national and regional
11 advertising computed as a standard deduction based on the national
12 average thereof as annually reported by the Federal Communications
13 Commission, or in lieu thereof by itemization by the individual
14 broadcasting station, and excluding that portion of revenue represented
15 by the out-of-state audience computed as a ratio to the station's total
16 audience as measured by the 100 micro-volt signal strength and delivery
17 by wire, if any; (7) engaging in activities which bring a person within
18 the definition of consumer contained in RCW 82.04.190(6); as to such
19 persons, the amount of tax on such business shall be equal to the gross
20 income of the business multiplied by the rate of ((0.484)) 0.33
21 percent.

22 As used in this section, "cold storage warehouse" means a storage
23 warehouse used to store fresh and/or frozen perishable fruits or
24 vegetables, meat, seafood, dairy products, or fowl, or any combination
25 thereof, at a desired temperature to maintain the quality of the
26 product for orderly marketing.

27 As used in this section, "storage warehouse" means a building or
28 structure, or any part thereof, in which goods, wares, or merchandise
29 are received for storage for compensation, except field warehouses,
30 fruit warehouses, fruit packing plants, warehouses licensed under
31 chapter 22.09 RCW, public garages storing automobiles, railroad freight
32 sheds, docks and wharves, and "self-storage" or "mini storage"
33 facilities whereby customers have direct access to individual storage
34 areas by separate entrance.

35 As used in this section, "periodical or magazine" means a printed
36 publication, other than a newspaper, issued regularly at stated
37 intervals at least once every three months, including any supplement or
38 special edition of the publication.

1 **Sec. 312.** RCW 82.04.280 and 1998 c 343 s 3 are each amended to
2 read as follows:

3 (EFFECTIVE JULY 1, 2001.) Upon every person engaging within this
4 state in the business of: (1) Printing, and of publishing newspapers,
5 periodicals, or magazines; (2) building, repairing or improving any
6 street, place, road, highway, easement, right of way, mass public
7 transportation terminal or parking facility, bridge, tunnel, or trestle
8 which is owned by a municipal corporation or political subdivision of
9 the state or by the United States and which is used or to be used,
10 primarily for foot or vehicular traffic including mass transportation
11 vehicles of any kind and including any readjustment, reconstruction or
12 relocation of the facilities of any public, private or cooperatively
13 owned utility or railroad in the course of such building, repairing or
14 improving, the cost of which readjustment, reconstruction, or
15 relocation, is the responsibility of the public authority whose street,
16 place, road, highway, easement, right of way, mass public
17 transportation terminal or parking facility, bridge, tunnel, or trestle
18 is being built, repaired or improved; (3) extracting for hire or
19 processing for hire; (4) operating a cold storage warehouse or storage
20 warehouse, but not including the rental of cold storage lockers; (5)
21 representing and performing services for fire or casualty insurance
22 companies as an independent resident managing general agent licensed
23 under the provisions of RCW 48.05.310; (6) radio and television
24 broadcasting, excluding network, national and regional advertising
25 computed as a standard deduction based on the national average thereof
26 as annually reported by the Federal Communications Commission, or in
27 lieu thereof by itemization by the individual broadcasting station, and
28 excluding that portion of revenue represented by the out-of-state
29 audience computed as a ratio to the station's total audience as
30 measured by the 100 micro-volt signal strength and delivery by wire, if
31 any; (7) engaging in activities which bring a person within the
32 definition of consumer contained in RCW 82.04.190(6); as to such
33 persons, the amount of tax on such business shall be equal to the gross
34 income of the business multiplied by the rate of ((0.484)) 0.33
35 percent.

36 As used in this section, "cold storage warehouse" means a storage
37 warehouse used to store fresh and/or frozen perishable fruits or
38 vegetables, meat, seafood, dairy products, or fowl, or any combination

1 thereof, at a desired temperature to maintain the quality of the
2 product for orderly marketing.

3 As used in this section, "storage warehouse" means a building or
4 structure, or any part thereof, in which goods, wares, or merchandise
5 are received for storage for compensation, except field warehouses,
6 fruit warehouses, fruit packing plants, warehouses licensed under
7 chapter 22.09 RCW, public garages storing automobiles, railroad freight
8 sheds, docks and wharves, and "self-storage" or "mini storage"
9 facilities whereby customers have direct access to individual storage
10 areas by separate entrance. "Storage warehouse" does not include a
11 building or structure, or that part of such building or structure, in
12 which an activity taxable under RCW 82.04.272 is conducted.

13 As used in this section, "periodical or magazine" means a printed
14 publication, other than a newspaper, issued regularly at stated
15 intervals at least once every three months, including any supplement or
16 special edition of the publication.

17 **Sec. 313.** RCW 82.04.290 and 1998 c 331 s 2, 1998 c 312 s 8, and
18 1998 c 308 s 4 are each reenacted and amended to read as follows:

19 (EFFECTIVE UNTIL JULY 1, 2001.) (1) Upon every person engaging
20 within this state in the business of providing international investment
21 management services, as to such persons, the amount of tax with respect
22 to such business shall be equal to the gross income or gross proceeds
23 of sales of the business multiplied by a rate of 0.275 percent.

24 (2) Upon every person engaging within this state in any business
25 activity other than or in addition to those enumerated in RCW
26 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,
27 82.04.2905, 82.04.280, 82.04.2635, and 82.04.2907, and subsection (1)
28 of this section; as to such persons the amount of tax on account of
29 such activities shall be equal to the gross income of the business
30 multiplied by the rate of ((1.5)) 0.33 percent.

31 This section includes, among others, and without limiting the scope
32 hereof (whether or not title to materials used in the performance of
33 such business passes to another by accession, confusion or other than
34 by outright sale), persons engaged in the business of rendering any
35 type of service which does not constitute a "sale at retail" or a "sale
36 at wholesale." The value of advertising, demonstration, and
37 promotional supplies and materials furnished to an agent by his
38 principal or supplier to be used for informational, educational and

1 promotional purposes shall not be considered a part of the agent's
2 remuneration or commission and shall not be subject to taxation under
3 this section.

4 **Sec. 314.** RCW 82.04.290 and 1998 c 343 s 4, 1998 c 331 s 2, 1998
5 c 312 s 8, and 1998 c 308 s 4 are each reenacted and amended to read as
6 follows:

7 (EFFECTIVE JULY 1, 2001, UNTIL JULY 1, 2003.) (1) Upon every
8 person engaging within this state in the business of providing
9 international investment management services, as to such persons, the
10 amount of tax with respect to such business shall be equal to the gross
11 income or gross proceeds of sales of the business multiplied by a rate
12 of 0.275 percent.

13 (2) Upon every person engaging within this state in any business
14 activity other than or in addition to those enumerated in RCW
15 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,
16 82.04.2905, 82.04.280, 82.04.2635, 82.04.2907, and 82.04.272, and
17 subsection (1) of this section; as to such persons the amount of tax on
18 account of such activities shall be equal to the gross income of the
19 business multiplied by the rate of (~~1.5~~) 0.33 percent.

20 This section includes, among others, and without limiting the scope
21 hereof (whether or not title to materials used in the performance of
22 such business passes to another by accession, confusion or other than
23 by outright sale), persons engaged in the business of rendering any
24 type of service which does not constitute a "sale at retail" or a "sale
25 at wholesale." The value of advertising, demonstration, and
26 promotional supplies and materials furnished to an agent by his
27 principal or supplier to be used for informational, educational and
28 promotional purposes shall not be considered a part of the agent's
29 remuneration or commission and shall not be subject to taxation under
30 this section.

31 **Sec. 315.** RCW 82.04.290 and 1998 c 343 s 4, 1998 c 331 s 2, 1998
32 c 312 s 8, and 1998 c 308 s 5 are each reenacted and amended to read as
33 follows:

34 (EFFECTIVE JULY 1, 2003.) (1) Upon every person engaging within
35 this state in the business of providing international investment
36 management services, as to such persons, the amount of tax with respect

1 to such business shall be equal to the gross income or gross proceeds
2 of sales of the business multiplied by a rate of 0.275 percent.

3 (2) Upon every person engaging within this state in any business
4 activity other than or in addition to those enumerated in RCW
5 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,
6 82.04.2905, 82.04.280, 82.04.2907, and 82.04.272, and subsection (1) of
7 this section; as to such persons the amount of tax on account of such
8 activities shall be equal to the gross income of the business
9 multiplied by the rate of (~~1.5~~) 0.33 percent.

10 This section includes, among others, and without limiting the scope
11 hereof (whether or not title to materials used in the performance of
12 such business passes to another by accession, confusion or other than
13 by outright sale), persons engaged in the business of rendering any
14 type of service which does not constitute a "sale at retail" or a "sale
15 at wholesale." The value of advertising, demonstration, and
16 promotional supplies and materials furnished to an agent by his
17 principal or supplier to be used for informational, educational and
18 promotional purposes shall not be considered a part of the agent's
19 remuneration or commission and shall not be subject to taxation under
20 this section.

21 **Sec. 316.** RCW 82.04.2905 and 1998 c 312 s 7 are each amended to
22 read as follows:

23 Upon every person engaging within this state in the business of
24 providing child care for periods of less than twenty-four hours; as to
25 such persons the amount of tax with respect to such business shall be
26 equal to the gross proceeds derived from such sales multiplied by the
27 rate of (~~0.484~~) 0.33 percent.

28 **Sec. 317.** RCW 82.04.2907 and 1998 c 331 s 1 are each amended to
29 read as follows:

30 Upon every person engaging within this state in the business of
31 receiving income from royalties or charges in the nature of royalties
32 for the granting of intangible rights, such as copyrights, licenses,
33 patents, or franchise fees, the amount of tax with respect to such
34 business shall be equal to the gross income from royalties or charges
35 in the nature of royalties from the business multiplied by the rate of
36 (~~0.484~~) 0.33 percent.

1 "Royalties" means compensation for the use of intangible property,
2 such as copyrights, patents, licenses, franchises, trademarks, trade
3 names, and similar items. It does not include compensation for any
4 natural resource.

5 **PART IV**
6 **REAL PROPERTY EXCISE TAX**

7 **Sec. 401.** RCW 82.45.060 and 1987 c 472 s 14 are each amended to
8 read as follows:

9 ~~((1))~~ There is imposed an excise tax upon each sale of real
10 property at the rate of one ~~((and twenty-eight one-hundredths))~~ percent
11 of the selling price. An amount equal to seven and seven-tenths
12 percent of the proceeds of this tax to the state treasurer shall be
13 deposited in the public works assistance account created in RCW
14 43.155.050.

15 ~~((2) There is imposed an additional excise tax through June 30,~~
16 ~~1989, upon each sale of real property at the rate of six one-hundredths~~
17 ~~of one percent of the selling price. The tax imposed under this~~
18 ~~subsection shall be deposited in the conservation area account under~~
19 ~~RCW 79.71.110.))~~

20 **PART V**
21 **MISCELLANEOUS**

22 NEW SECTION. **Sec. 501.** CAPTIONS AND HEADINGS. Section captions
23 and part headings as used in this act constitute no part of the law.

24 NEW SECTION. **Sec. 502.** Sections 303, 309, 311, and 313 of this
25 act expire July 1, 2001.

26 NEW SECTION. **Sec. 503.** Section 314 of this act expires July 1,
27 2003.

28 NEW SECTION. **Sec. 504.** Sections 304, 310, 312, and 314 of this
29 act take effect July 1, 2001, only if the contingency in section 508 of
30 this act requiring passage of a constitutional amendment occurs.

1 NEW SECTION. **Sec. 505.** Section 315 of this act takes effect July
2 1, 2003, only if the contingency in section 508 of this act requiring
3 passage of a constitutional amendment occurs.

4 NEW SECTION. **Sec. 506.** CODIFICATION. Sections 101 through 122 of
5 this act constitute a new title, to be codified as Title 82A RCW.

6 NEW SECTION. **Sec. 507.** SEVERABILITY CLAUSE. If any provision of
7 this act or its application to any person or circumstance is held
8 invalid, the remainder of the act or the application of the provision
9 to other persons or circumstances is not affected.

10 NEW SECTION. **Sec. 508.** Except as provided in sections 504 and 505
11 of this act, this act takes effect January 1, 2001, if an amendment to
12 Article VII of the state Constitution authorizing an income tax and
13 setting maximum tax rates is validly submitted to and is approved and
14 ratified by the voters at the next general election. If the proposed
15 amendment is not so approved and ratified, this act is null and void in
16 its entirety.

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