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ENGROSSED HOUSE BILL 2260

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State of Washington

57th Legislature 2001 First Special Session

By Representatives Cairnes, Morris, Kessler, Linville, McMorris, Doumit, Anderson, Hatfield, Poulsen, Crouse, Veloria, Benson, DeBolt, Reardon, Ericksen, Armstrong, Dunshee, Mastin and Delvin

Read first time . Referred to Committee on .

1 AN ACT Relating to the taxation of grocery distribution  
2 cooperatives; amending RCW 82.04.270, 82.04.270, 82.19.050, and  
3 82.19.050; reenacting and amending RCW 82.04.290, 82.04.290, and  
4 82.04.290; adding a new section to chapter 82.04 RCW; providing  
5 effective dates; providing expiration dates; and declaring an  
6 emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW  
9 to read as follows:

10 (1) The amount of tax with respect to a qualified grocery  
11 distribution cooperative's sales of groceries or related goods for  
12 resale, excluding items subject to tax under RCW 82.04.260(4), to  
13 customer-owners of the grocery distribution cooperative is equal to the  
14 gross proceeds of sales of the grocery distribution cooperative  
15 multiplied by the rate of one and one-half percent.

16 (2) A qualified grocery distribution cooperative is allowed a  
17 deduction from the gross proceeds of sales of groceries or related  
18 goods for resale, excluding items subject to tax under RCW  
19 82.04.260(4), to customer-owners of the grocery distribution

1 cooperative that is equal to the portion of the gross proceeds of sales  
2 for resale that represents the actual cost of the merchandise sold by  
3 the grocery distribution cooperative to customer-owners.

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

6 (a) "Grocery distribution cooperative" means an entity that sells  
7 groceries and related items to customer-owners of the grocery  
8 distribution cooperative and has customer-owners, in the aggregate, who  
9 own a majority of the outstanding ownership interests of the grocery  
10 distribution cooperative or of the entity controlling the grocery  
11 distribution cooperative. "Grocery distribution cooperative" includes  
12 an entity that controls a grocery distribution cooperative.

13 (b) "Qualified grocery distribution cooperative" means a grocery  
14 distribution cooperative that has been determined by a court of record  
15 of the state of Washington to be not engaged in wholesaling or making  
16 sales at wholesale, within the meaning of RCW 82.04.270 or any similar  
17 provision of a municipal ordinance that imposes a tax on gross  
18 receipts, gross proceeds of sales, or gross income, with respect to  
19 purchases made by customer-owners, and subsequently changes its form of  
20 doing business to make sales at wholesale of groceries or related items  
21 to its customer-owners.

22 (c) "Customer-owner" means a person who has an ownership interest  
23 in a grocery distribution cooperative and purchases groceries and  
24 related items at wholesale from that grocery distribution cooperative.

25 (d) "Controlling" means holding fifty percent or more of the voting  
26 interests of an entity and having at least equal power to direct or  
27 cause the direction of the management and policies of the entity,  
28 whether through the ownership of voting securities, by contract, or  
29 otherwise.

30 **Sec. 2.** RCW 82.04.270 and 1999 c 358 s 1 are each amended to read  
31 as follows:

32 Upon every person except persons taxable under RCW 82.04.260(5) or  
33 section 1 of this act engaging within this state in the business of  
34 making sales at wholesale; as to such persons the amount of tax with  
35 respect to such business shall be equal to the gross proceeds of sales  
36 of such business multiplied by the rate of 0.484 percent.

1       **Sec. 3.** RCW 82.04.270 and 1999 c 358 s 2 are each amended to read  
2 as follows:

3       Upon every person except persons taxable under RCW 82.04.260(5),  
4 section 1 of this act, or 82.04.272 engaging within this state in the  
5 business of making sales at wholesale; as to such persons the amount of  
6 tax with respect to such business shall be equal to the gross proceeds  
7 of sales of such business multiplied by the rate of 0.484 percent.

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

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

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

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

33       **Sec. 5.** RCW 82.04.290 and 1998 c 343 s 4, 1998 c 331 s 2, 1998 c  
34 312 s 8, and 1998 c 308 s 4 are each reenacted and amended to read as  
35 follows:

36       (1) Upon every person engaging within this state in the business of  
37 providing international investment management services, as to such

1 persons, the amount of tax with respect to such business shall be equal  
2 to the gross income or gross proceeds of sales of the business  
3 multiplied by a rate of 0.275 percent.

4 (2) Upon every person engaging within this state in any business  
5 activity other than or in addition to those enumerated in RCW  
6 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,  
7 section 1 of this act, 82.04.2905, 82.04.280, 82.04.2635, 82.04.2907,  
8 and 82.04.272, and subsection (1) of this section; as to such persons  
9 the amount of tax on account of such activities shall be equal to the  
10 gross income of the business multiplied by the rate of 1.5 percent.

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

22 **Sec. 6.** RCW 82.04.290 and 1998 c 343 s 4, 1998 c 331 s 2, 1998 c  
23 312 s 8, and 1998 c 308 s 5 are each reenacted and amended to read as  
24 follows:

25 (1) Upon every person engaging within this state in the business of  
26 providing international investment management services, as to such  
27 persons, the amount of tax with respect to such business shall be equal  
28 to the gross income or gross proceeds of sales of the business  
29 multiplied by a rate of 0.275 percent.

30 (2) Upon every person engaging within this state in any business  
31 activity other than or in addition to those enumerated in RCW  
32 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270,  
33 section 1 of this act, 82.04.2905, 82.04.280, 82.04.2907, and  
34 82.04.272, and subsection (1) of this section; as to such persons the  
35 amount of tax on account of such activities shall be equal to the gross  
36 income of the business multiplied by the rate of 1.5 percent.

37 This section includes, among others, and without limiting the scope  
38 hereof (whether or not title to materials used in the performance of

1 such business passes to another by accession, confusion or other than  
2 by outright sale), persons engaged in the business of rendering any  
3 type of service which does not constitute a "sale at retail" or a "sale  
4 at wholesale." The value of advertising, demonstration, and  
5 promotional supplies and materials furnished to an agent by his  
6 principal or supplier to be used for informational, educational and  
7 promotional purposes shall not be considered a part of the agent's  
8 remuneration or commission and shall not be subject to taxation under  
9 this section.

10 **Sec. 7.** RCW 82.19.050 and 2001 c 118 s 7 are each amended to read  
11 as follows:

12 The litter tax imposed in this chapter does not apply to:

13 (1) The manufacture or sale of products for use and consumption  
14 outside the state; (~~or~~)

15 (2) The value of products or gross proceeds of the sales exempt  
16 from tax under RCW 82.04.330; or

17 (3) The sale of products for resale by a qualified grocery  
18 distribution cooperative to customer-owners of the grocery distribution  
19 cooperative. For the purposes of this section, "qualified grocery  
20 distribution cooperative" and "customer-owner" have the meanings given  
21 in section 1 of this act.

22 **Sec. 8.** RCW 82.19.050 and 1992 c 175 s 7 are each amended to read  
23 as follows:

24 The litter tax imposed in this chapter does not apply to:

25 (1) The manufacture or sale of products for use and consumption  
26 outside the state; (~~or~~)

27 (2) The value of products or gross proceeds of the sales of any  
28 animal, bird, or insect or the milk, eggs, wool, fur, meat, honey, or  
29 other substance obtained therefrom, if the person performs only the  
30 growing or raising function of such animal, bird, or insect; or

31 (3) The sale of products for resale by a qualified grocery  
32 distribution cooperative to customer-owners of the grocery distribution  
33 cooperative. For the purposes of this section, "qualified grocery  
34 distribution cooperative" and "customer-owner" have the meanings given  
35 in section 1 of this act.

1        NEW SECTION.    **Sec. 9.**    (1) Sections 1, 2, 4, and 8 of this act are  
2 necessary for the immediate preservation of the public peace, health,  
3 or safety, or support of the state government and its existing public  
4 institutions, and take effect immediately.

5        (2) Sections 3 and 5 of this act are necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and take effect  
8 July 1, 2001.

9        (3) Section 6 of this act takes effect July 1, 2003.

10       (4) Section 7 is necessary for the immediate preservation of the  
11 public peace, health, or safety, or support of the state government and  
12 its existing public institutions, and takes effect July 22, 2001.

13       NEW SECTION.    **Sec. 10.**    (1) Sections 2 and 4 of this act expire  
14 July 1, 2001.

15       (2) Section 5 of this act expires July 1, 2003.

16       (3) Section 8 of this act expires July 22, 2001.