

---

HOUSE BILL 2955

---

State of Washington

57th Legislature

2002 Regular Session

By Representatives Cairnes, Sehlin, Woods, Pflug, Mitchell, Chandler, Mulliken, Buck and Mastin

Read first time 02/12/2002. Referred to Committee on Finance.

1 AN ACT Relating to changing requirements regarding state and local  
2 tax to provide for municipal gross receipts tax uniformity and  
3 fairness; amending RCW 82.32.060; adding a new chapter to Title 35 RCW;  
4 and providing effective dates.

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

6 NEW SECTION. **Sec. 1.** LEGISLATIVE FINDINGS AND INTENT. (1) The  
7 legislature finds that:

8 (a) Businesses in Washington are concerned about the potential  
9 multiple taxation that arises due to the various city gross receipts  
10 taxes and the lack of uniformity among city jurisdictions;

11 (b) The current system of city gross receipts taxes has a negative  
12 impact on Washington's business climate by creating complexity and  
13 inconsistencies for taxpayers;

14 (c) City gross receipts tax revenue provides a sizable portion of  
15 city revenue that is used for essential services;

16 (d) Local government services contribute to a healthy business  
17 climate; and

18 (e) Cities have and should retain the flexibility to tailor their  
19 tax structures to meet unique local needs, but that flexibility must be

1 balanced with predictability and ease of administration of city gross  
2 receipts taxes.

3 (2) Therefore, it is the intent of the legislature to:

4 (a) Require cities that impose a gross receipts tax to adopt a  
5 model ordinance that creates a more uniform system of city gross  
6 receipts taxes;

7 (b) Eliminate any potential for multiple taxation of the same gross  
8 income;

9 (c) Make city gross receipts taxes simpler, more predictable, and  
10 easier to administer, while allowing for some continued local control  
11 and flexibility for cities.

12 NEW SECTION. Sec. 2. MUNICIPAL GROSS RECEIPTS TAX--LIMITED SCOPE.  
13 Sections 3 through 15 of this act do not apply to gross receipts taxes  
14 on business activities that, prior to January 1, 2002, have been  
15 historically or traditionally taxed as a utility business for municipal  
16 tax purposes such as:

17 (1) A light and power business or a natural gas distribution  
18 business, as defined in RCW 82.16.010;

19 (2) A telephone business, as defined in RCW 82.04.065;

20 (3) Cable television services;

21 (4) Sewer or water services;

22 (5) Drainage services;

23 (6) Solid waste services; or

24 (7) Steam services.

25 NEW SECTION. Sec. 3. MUNICIPAL GROSS RECEIPTS TAX--DEFINITIONS.  
26 The definitions in this section apply throughout this chapter unless  
27 the context clearly requires otherwise:

28 (1) "Business" has the same meaning as that provided in RCW  
29 82.04.140.

30 (2) "City" means a city, town, or code city.

31 (3) "Business and occupation tax" or "gross receipts tax" means a  
32 tax which is imposed on or measured by the value of products, the gross  
33 income of the business, or the gross proceeds of sales, as the case may  
34 be and which is also not, pursuant to law or custom, separately stated  
35 from the sales price. As used throughout this chapter, the terms  
36 "value of products," "gross income of the business," and "gross

1 proceeds of sales" have the same meaning as those provided in chapter  
2 82.04 RCW.

3 (4) "Local jurisdiction" means any city, town, code city, county,  
4 municipal district or corporation, political subdivision, Indian  
5 reservation, or federal area located in the state of Washington.

6 NEW SECTION. **Sec. 4.** MUNICIPAL GROSS RECEIPTS TAX--MODEL  
7 ORDINANCE. (1)(a) The association of Washington cities shall form a  
8 model ordinance development committee made up of a representative  
9 sampling of large, medium, and small cities that currently impose a  
10 gross receipts tax. By September 1, 2003, this committee shall develop  
11 and adopt a model ordinance regarding municipal gross receipts taxes in  
12 accordance with the provisions of this chapter. The committee shall  
13 develop the model ordinance and any subsequent amendments using a  
14 process that includes substantial input from business stakeholders and  
15 other members of the public. Input shall be solicited from statewide  
16 business associations and from local chambers of commerce and downtown  
17 business associations in cities that levy a gross receipts tax.

18 (b) The municipal research and services center shall post the  
19 officially adopted version of the model ordinance and a summary of any  
20 stakeholder input on its internet web site and shall have paper copies  
21 available upon request. Additionally, a city that imposes a gross  
22 receipts tax must make copies of its full and complete gross receipts  
23 tax ordinance available in both electronic and paper form. The model  
24 ordinance and accompanying information shall also be made available to  
25 the department of revenue taxpayer information services division and  
26 the department of licensing master license program.

27 (c) The definitions and tax classifications provided in the model  
28 ordinance may not be amended more frequently than once every four  
29 years. However, the model ordinance may be amended at any time to  
30 comply with changes in state law. Any amendment made to the model  
31 ordinance under this subsection (1)(c) shall be posted on the internet  
32 web site of the municipal research and services center at least one  
33 hundred twenty days prior to the effective date of the amendment. In  
34 addition, any amendment to a mandatory provision of the model ordinance  
35 must be uniformly adopted with the same effective date by all cities  
36 imposing a gross receipts tax.

37 (2) The model ordinance must contain, at a minimum, the following,  
38 mandatory provisions:

1 (a) The following core definitions from the state business and  
2 occupation tax: RCW 82.04.030 ("Person," "company"); RCW 82.04.040  
3 ("Sale," "casual or isolated sale"); RCW 82.04.050 ("Sale at retail,"  
4 "retail sale"); RCW 82.04.060 ("Sale at wholesale," "wholesale sale");  
5 RCW 82.04.070 ("Gross proceeds of sales"); RCW 82.04.080 ("Gross income  
6 of the business"); RCW 82.04.090 ("Value proceeding or accruing"); RCW  
7 82.04.100 ("Extractor"); RCW 82.04.110 ("Manufacturer"); RCW 82.04.120  
8 ("To manufacture"); RCW 82.04.130 ("Commercial or industrial use"); RCW  
9 82.04.140 ("Business"); RCW 82.04.150 ("Engaging in business"); and RCW  
10 82.04.190 ("Consumer"). The incorporation of these core definitions in  
11 the model ordinance shall be construed to include, as an extension of  
12 each definition, any state level determination, regulation,  
13 interpretation, or court opinion pertaining to any one of these  
14 definitions. In addition, if the model ordinance or an individual city  
15 uses a classification, exemption, deduction or credit substantially  
16 similar to one set forth in the state's gross receipts tax system, the  
17 definitions used for the classification, exemption, deduction, or  
18 credit shall be identical to those provided in the state's gross  
19 receipts business and occupation tax system. However, this subsection  
20 (2) shall not be construed to limit any individual city's flexibility  
21 to establish its own classifications or rate structures for gross  
22 receipts tax purposes subject to the provisions of RCW 35.21.710 nor  
23 shall it be construed to reduce, limit, or eliminate a city's ability  
24 to continue to tax an activity at the rate established for an activity  
25 prior to January 1, 2002, pursuant to either a gross receipts tax or  
26 utility tax;

27 (b) The system of credits contained in section 6 of this act and a  
28 form for such use;

29 (c) A uniform, minimum small business tax exemption of at least the  
30 equivalent of twenty-five thousand dollars in gross income. A city may  
31 elect to deviate from this requirement by creating a higher threshold,  
32 but it shall not deviate lower than the level required in this  
33 subsection (2)(c). A city with a small business tax exemption or  
34 threshold in excess of that provided in this subsection (2)(c) prior to  
35 January 1, 2001, shall retain its current threshold;

36 (d) Tax reporting frequencies that meet the requirements of section  
37 8 of this act;

38 (e) Penalty and interest provisions that meet the requirements of  
39 sections 9 and 10 of this act;

1 (f) Claim periods that meet the requirements of section 11 of this  
2 act;

3 (g) Refund provisions that meet the requirements of section 12 of  
4 this act.

5 (3) Except for the system of credits developed to address multiple  
6 taxation under subsection (2)(b) of this section, the model ordinance  
7 may adopt its own provisions for tax exemptions, tax credits, and tax  
8 deductions.

9 (4) In drafting the mandatory definitions required under subsection  
10 (2)(a) of this section, the committee established in subsection (1)(a)  
11 of this section shall, by December 1, 2003, develop recommendations to  
12 the legislature regarding possible amendments to the state's gross  
13 receipts tax definitions to make them more clear, concise,  
14 understandable, and easier to administer as part of the model  
15 ordinance.

16 NEW SECTION. **Sec. 5.** MUNICIPAL GROSS RECEIPTS TAX--MODEL  
17 ORDINANCE ADOPTION REQUIRED. (1) A city with a population of fifty  
18 thousand or more and imposing a gross receipts tax must adopt and  
19 implement, at a minimum, the mandatory provisions of the model  
20 ordinance provided in section 4 of this act by January 1, 2004.  
21 However, if a definition required to be adopted as a mandatory  
22 provision of the model ordinance under section 4(2)(a) of this act  
23 would cause a city with a population of fifty thousand or more to lose  
24 more than ten percent of the total gross receipts taxes received by  
25 that city, the city may delay the adoption of that particular  
26 definition until January 1, 2005.

27 (2) A city with a population of less than fifty thousand and  
28 imposing a gross receipts tax must adopt and implement, at a minimum,  
29 the mandatory provisions of the model ordinance provided in section 4  
30 of this act by January 1, 2005. However, if a definition required to  
31 be adopted as a mandatory provision of the model ordinance under  
32 section 4(2)(a) of this act would cause a city with a population of  
33 less than fifty thousand to lose more than ten percent of the total  
34 gross receipts taxes received by that city, the city may delay the  
35 adoption of that particular definition until January 1, 2006.

36 (3) While it is the intent of the legislature to allow some  
37 deviation from the nonmandatory provisions of the model ordinance,  
38 cities are encouraged to deviate as little as possible from the

1 nonmandatory portions of the model ordinance to maintain the highest  
2 degree of uniformity among the cities imposing a gross receipts tax.  
3 If a city chooses to deviate from the nonmandatory provisions of the  
4 model ordinance, the deviation should be noted along with an  
5 explanatory statement regarding the deviation. Both the deviation and  
6 the explanatory statement shall then be placed in a centralized  
7 depository such as the municipal research and services center to  
8 provide taxpayers with quick access to all deviations in both paper and  
9 electronic form.

10 NEW SECTION. **Sec. 6.** MUNICIPAL GROSS RECEIPTS TAX--MULTIPLE  
11 TAXATION--CREDIT SYSTEM. (1) It is the intent of the legislature in  
12 providing the system of credits in subsections (3)(a) and (b) of this  
13 section to eliminate any circumstance that would result in any city or  
14 multiple cities imposing a gross receipts business and occupation tax  
15 on greater than one hundred percent of the gross income of the  
16 business.

17 (2)(a) Persons who engage in business activities that are within  
18 the purview of more than one classification of a gross receipts  
19 business and occupation tax shall be taxable under each applicable  
20 classification.

21 (b) Notwithstanding anything to the contrary in this section, if  
22 imposition of the tax would place an undue burden upon interstate  
23 commerce or violate other constitutional requirements, a taxpayer shall  
24 be allowed a credit to the extent necessary to preserve the validity of  
25 the tax.

26 (3)(a) Every person engaged in manufacturing activities is allowed  
27 a credit against the measure of tax of any manufacturing gross receipts  
28 tax imposed by a local jurisdiction for any portion of the measure of  
29 tax which has been previously subjected to a local jurisdiction gross  
30 receipts tax on either extracting or previously performed manufacturing  
31 activities.

32 (b) Every person engaged in making retail or wholesale sales is  
33 allowed a credit against the measure of tax of any retailing or  
34 wholesaling gross receipts tax imposed by a local jurisdiction for any  
35 portion of the measure of tax which has been previously subjected to a  
36 local jurisdiction gross receipts tax on either extracting or  
37 manufacturing activities.

1 (c) The model ordinance provided for in section 4 of this act shall  
2 be drafted to address the issue of multiple taxation for those tax  
3 classifications that are in addition to those enumerated in (a) and (b)  
4 of this subsection. The objective of any such provisions shall be to  
5 eliminate multiple taxation of the same income by two or more cities  
6 through the use of credits against the measure of tax.

7 NEW SECTION. **Sec. 7.** MUNICIPAL GROSS RECEIPTS TAX--NEXUS. A city  
8 may not impose a gross receipts tax on a person unless that person has  
9 nexus with the city. For the purposes of this section, the term  
10 "nexus" means business activities conducted by a person sufficient to  
11 subject that person to the taxing jurisdiction of a city under the  
12 standards established for interstate commerce under the commerce clause  
13 of the United States Constitution.

14 NEW SECTION. **Sec. 8.** MUNICIPAL GROSS RECEIPTS TAX--REPORTING  
15 FREQUENCY. A city that imposes a gross receipts tax shall allow  
16 reporting and payment of tax on a monthly, quarterly, or annual basis.  
17 The frequency for any particular person may be assigned at the  
18 discretion of the city, except that monthly reporting may be assigned  
19 only if it can be demonstrated that the taxpayer is remitting excise  
20 tax to the state on a monthly basis. For persons assigned a monthly  
21 frequency, payment is due within the same time period provided for  
22 monthly taxpayers under RCW 82.32.045(1). For persons assigned a  
23 quarterly or annual frequency, payment is due within the same time  
24 period as provided for quarterly or annual frequency under RCW  
25 82.32.045(2).

26 NEW SECTION. **Sec. 9.** MUNICIPAL GROSS RECEIPTS TAX--PENALTIES AND  
27 INTEREST. (1) A city that imposes a gross receipts tax shall compute  
28 interest charged a taxpayer on an underpaid tax or penalty in  
29 accordance with RCW 82.32.050.

30 (2) A city that imposes a gross receipts tax shall compute interest  
31 paid on refunds or credits of amounts paid or other recovery allowed a  
32 taxpayer in accordance with RCW 82.32.060.

33 NEW SECTION. **Sec. 10.** MUNICIPAL BUSINESS AND OCCUPATION TAX--  
34 PENALTIES. A city that imposes a gross receipts tax shall provide for  
35 the imposition of penalties as follows:

1 (1) If payment of any tax due on a return to be filed by a taxpayer  
2 is not received by the city by the due date, the taxpayer shall be  
3 charged a penalty equivalent to that provided in RCW 82.32.090(1).

4 (2) If payment of any tax assessed by the city is not received by  
5 the city by the due date specified in the notice, or any extension, the  
6 city shall add a penalty equivalent to that provided in RCW  
7 82.32.090(2).

8 (3) If a warrant is issued by the city for the collection of taxes,  
9 increases, and penalties, a penalty equivalent to that provided in RCW  
10 82.32.090(3) shall be added to it.

11 (4) If the city, code city, or town finds that all or any part of  
12 a deficiency resulted from the disregard of specific written  
13 instructions as to reporting or tax liabilities, the city shall add a  
14 penalty equivalent to that provided in RCW 82.32.090(4). A taxpayer  
15 disregards specific written instructions when the city has informed the  
16 taxpayer in writing of the taxpayer's tax obligations and the taxpayer  
17 fails to act in accordance with those instructions unless the city has  
18 not issued final instructions because the matter is under appeal. The  
19 city shall not assess the penalty under this section upon any taxpayer  
20 who has made a good faith effort to comply with the specific written  
21 instructions provided by the city to that taxpayer. Specific written  
22 instructions may be given as a part of a tax assessment, audit,  
23 determination, or closing agreement, provided that specific written  
24 instructions apply only to the taxpayer addressed or referenced on the  
25 documents. Any specific written instructions by the city shall be  
26 clearly identified as such and shall inform the taxpayer that failure  
27 to follow the instructions may subject the taxpayer to the penalties  
28 imposed by this subsection.

29 (5) If the city finds that all or any part of the deficiency  
30 resulted from an intent to evade the tax, a further penalty equivalent  
31 to that provided in RCW 82.32.090(5) shall be added.

32 (6) The aggregate of penalties imposed under subsections (1), (2),  
33 and (3) of this section shall not exceed the limit for penalties  
34 provided in RCW 82.32.090(6). This subsection does not prohibit or  
35 restrict the application of other penalties authorized by law.

36 (7) The city may not impose both the evasion penalty and the  
37 penalty for disregarding specific written instructions on the same tax  
38 found to be due.



1 (8) For the purposes of this section, "return" means any document  
2 a person is required by the city to file to satisfy or establish a tax  
3 obligation that is administered by the city and that has a due date  
4 defined by ordinance.

5 NEW SECTION. **Sec. 11.** MUNICIPAL GROSS RECEIPTS TAX--CLAIM PERIOD.  
6 The provisions relating to the time period allowed for an assessment or  
7 correction of an assessment for additional taxes, penalties, or  
8 interest shall be substantially identical to those provided in RCW  
9 82.32.050(3).

10 NEW SECTION. **Sec. 12.** MUNICIPAL GROSS RECEIPTS TAX--REFUND  
11 PERIOD. The provisions relating to the time period allowed for a  
12 refund of taxes paid shall be substantially identical to those provided  
13 in RCW 82.32.060 (1) and (2).

14 NEW SECTION. **Sec. 13.** MUNICIPAL GROSS RECEIPTS TAX--APPORTIONMENT  
15 PROVISIONS. (1) For the purposes of apportioning or allocating gross  
16 income of the business for city gross receipts taxes:

17 (a) The total tax measure apportioned or allocated to all  
18 applicable local jurisdictions shall not exceed the total tax measure  
19 computed by the state for the purpose of state gross receipts taxation.

20 (b) All state and federal constitutional provisions and laws  
21 pertaining to the establishment of due process and commerce clause  
22 protections for the taxation of interstate commerce are duly applicable  
23 to the establishment of due process and commerce clause protections for  
24 the taxation of intrastate commerce.

25 (2) The following specific guidelines shall be applied by any city  
26 that imposes a gross receipts tax:

27 (a) For the purposes of imposing a gross receipts tax on  
28 extracting, manufacturing, or processing for hire activities, the  
29 activities are subject to tax in the local jurisdiction where the  
30 activities occur. If the activities occur in more than one local  
31 jurisdiction, the activities are consistently, equitably, and  
32 reasonably apportioned between or among those local jurisdictions even  
33 though the taxpayer may not have an office or other permanent place of  
34 business in each jurisdiction.

35 (b) For the purposes of imposing a gross receipts tax on retail  
36 sales, all sales are subject to tax in the local jurisdiction where the

1 sales occur. For the purposes of determining where a retail sale  
2 occurs under this subsection (2)(b), the methods provided in RCW  
3 82.14.020 (1) through (5) for determining where a retail sale occurs  
4 apply.

5 (c) For the purposes of imposing a gross receipts tax on wholesale  
6 sales, all sales are subject to tax in the local jurisdiction where the  
7 sales occur. For the purposes of determining where a wholesale sale  
8 occurs under this subsection, the methods provided in RCW 82.14.020 (1)  
9 through (5) for determining where a retail sale occurs apply as if the  
10 wholesale sale was a retail sale.

11 (d) For the purposes of imposing a gross receipts tax on any person  
12 rendering services, other than services defined as a retail sale under  
13 RCW 82.04.050, the services are subject to tax in the local  
14 jurisdiction where the services were primarily performed. If the  
15 person rendering services performs substantial service activities in  
16 more than one local jurisdiction, the person shall apportion to each  
17 local jurisdiction that portion of the total gross income that is  
18 derived from services rendered in each local jurisdiction. Where  
19 apportionment cannot be accurately made by separate accounting methods,  
20 the person shall apportion to each local jurisdiction that proportion  
21 of the total gross income which is derived from services which the cost  
22 of performing the services within a local jurisdiction bears to the  
23 total cost of performing the services in all local jurisdictions. The  
24 city shall apportion the gross receipts derived from services even  
25 though the taxpayer may not have an office or other permanent place of  
26 business in each jurisdiction where it performs the services.

27 (e) Under no circumstances may a business apportion or allocate  
28 gross receipts to a jurisdiction in which it has no nexus for tax  
29 purposes.

30 (f) Upon the effective date of this section, the model ordinance  
31 developed under section 4 of this act shall not contain any provisions  
32 relating to the apportionment or allocation of gross income.

33 NEW SECTION. **Sec. 14.** MUNICIPAL GROSS RECEIPTS TAX--APPORTIONMENT  
34 PROVISIONS STUDY. The department of revenue shall work with the  
35 association of Washington cities and the business community to study  
36 the possible impacts of section 13 of this act regarding the issues of  
37 apportionment and allocation of income as they relate to cities,  
38 businesses engaged in business solely within the boundaries of a

1 single, local jurisdiction, and businesses engaged in business within  
2 multiple local jurisdictions. In conducting the study, the department  
3 shall perform an independent analysis of the specific revenue impacts  
4 to cities, if any, which may occur when section 13 of this act is  
5 implemented. If the department determines that revenue impacts are  
6 anticipated as a result of the implementation of section 13 of this  
7 act, it shall, on January 1, 2004, make recommendations to the governor  
8 and the fiscal committees of the legislature regarding actions the  
9 legislature could take to mitigate the financial impact. In addition  
10 to methods offered by the department to financially mitigate any  
11 impact, the recommendations may also include the substantive alteration  
12 or repeal of section 13 of this act.

13 NEW SECTION. **Sec. 15.** MUNICIPAL GROSS RECEIPTS TAX--  
14 IMPLEMENTATION BY CITIES--CONTINGENT AUTHORITY. A city that has not  
15 complied with the model ordinance adoption requirements of section 5 of  
16 this act may not impose a gross receipts tax on business activities  
17 subject to the mandatory provisions of the model ordinance.

18 NEW SECTION. **Sec. 16.** MUNICIPAL GROSS RECEIPTS TAX--PREEMPTION OF  
19 GROSS RECEIPTS TAXATION OF INTELLECTUAL PROPERTY. (1) A city shall not  
20 impose a gross receipts tax upon any intellectual property creating  
21 activity. However, nothing in this section shall be construed to  
22 prohibit a city from imposing a gross receipts tax on the sale of  
23 tangible personal property or services that include the benefits from  
24 intellectual property creating activities.

25 (2) For the purposes of this section, "intellectual property  
26 creating activity" means research, development, authorship, creation,  
27 or general or specific inventive activity without regard to whether the  
28 intellectual property creating activity results in the creation of  
29 patents, trademarks, trade secrets, matter subject to copyright, or any  
30 other intellectual property.

31 **Sec. 17.** RCW 82.32.060 and 1999 c 358 s 13 are each amended to  
32 read as follows:

33 (1) If, upon receipt of an application by a taxpayer for a refund  
34 or for an audit of the taxpayer's records, or upon an examination of  
35 the returns or records of any taxpayer, it is determined by the  
36 department that within the statutory period for assessment of taxes,

1 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,  
2 penalty, or interest has been paid in excess of that properly due, the  
3 excess amount paid within, or attributable to, such period shall be  
4 credited to the taxpayer's account or shall be refunded to the  
5 taxpayer, at the taxpayer's option. Except as provided in subsections  
6 (2) and (3) of this section, no refund or credit shall be made for  
7 taxes, penalties, or interest paid more than four years prior to the  
8 beginning of the calendar year in which the refund application is made  
9 or examination of records is completed.

10 (2) The execution of a written waiver under RCW 82.32.050 or  
11 82.32.100 shall extend the time for making a refund or credit of any  
12 taxes paid during, or attributable to, the years covered by the waiver  
13 if, prior to the expiration of the waiver period, an application for  
14 refund of such taxes is made by the taxpayer or the department  
15 discovers a refund or credit is due.

16 (3) Notwithstanding the foregoing limitations there shall be  
17 refunded or credited to taxpayers engaged in the performance of United  
18 States government contracts or subcontracts the amount of any tax paid,  
19 measured by that portion of the amounts received from the United  
20 States, which the taxpayer is required by contract or applicable  
21 federal statute to refund or credit to the United States, if claim for  
22 such refund is filed by the taxpayer with the department within one  
23 year of the date that the amount of the refund or credit due to the  
24 United States is finally determined and filed within four years of the  
25 date on which the tax was paid: PROVIDED, That no interest shall be  
26 allowed on such refund.

27 (4) Any such refunds shall be made by means of vouchers approved by  
28 the department and by the issuance of state warrants drawn upon and  
29 payable from such funds as the legislature may provide. However,  
30 taxpayers who are required to pay taxes by electronic funds transfer  
31 under RCW 82.32.080 shall have any refunds paid by electronic funds  
32 transfer.

33 (5) Any judgment for which a recovery is granted by any court of  
34 competent jurisdiction, not appealed from, for tax, penalties, and  
35 interest which were paid by the taxpayer, and costs, in a suit by any  
36 taxpayer shall be paid in the same manner, as provided in subsection  
37 (4) of this section, upon the filing with the department of a certified  
38 copy of the order or judgment of the court.

1 (a) Interest at the rate of three percent per annum shall be  
2 allowed by the department and by any court on the amount of any refund,  
3 credit, or other recovery allowed to a taxpayer for taxes, penalties,  
4 or interest paid by the taxpayer before January 1, 1992. This rate of  
5 interest shall apply for all interest allowed through December 31,  
6 1998. Interest allowed after December 31, 1998, shall be computed at  
7 the rate as computed under RCW 82.32.050(2). The rate so computed  
8 shall be adjusted on the first day of January of each year for use in  
9 computing interest for that calendar year.

10 (b) For refunds or credits of amounts paid or other recovery  
11 allowed to a taxpayer after December 31, 1991, the rate of interest  
12 shall be the rate as computed for assessments under RCW 82.32.050(2)  
13 less one percent. This rate of interest shall apply for all interest  
14 allowed through December 31, 1998. Interest allowed after December 31,  
15 1998, shall be computed at the rate as computed under RCW 82.32.050(2).  
16 The rate so computed shall be adjusted on the first day of January of  
17 each year for use in computing interest for that calendar year.

18 (6)(a) Interest allowed on a credit notice or refund issued after  
19 July 1, 2002, shall be computed from the last day of each calendar year  
20 containing the overpayment, and the last day of the final month  
21 included in a credit notice or refund if not the end of a calendar  
22 year.

23 (b) The department's credit notices shall include any applicable  
24 interest. Interest allowed with a credit notice shall accrue up to the  
25 date the taxpayer could reasonably be expected to use the credit  
26 notice, as defined by the department's rules.

27 (c) If a credit notice is converted to a refund, interest shall be  
28 recomputed to the date the refund is issued, but not to exceed the  
29 amount of interest that would have been allowed with the credit notice.

30 NEW SECTION. Sec. 18. CAPTIONS. Captions used in this act are  
31 not any part of the law.

32 NEW SECTION. Sec. 19. CODIFICATION. Sections 1 through 16, 18,  
33 and 20 of this act constitute a new chapter in Title 35 RCW.

34 NEW SECTION. Sec. 20. EFFECTIVE DATES. (1) Section 13 of this  
35 act takes effect January 1, 2005.

1 (2) Section 17 of this act takes effect July 1, 2002.

--- END ---