

CERTIFICATION OF ENROLLMENT

SENATE BILL 5468

Chapter 111, Laws of 2007

60th Legislature
2007 Regular Session

TAX PROGRAMS--ADMINISTRATION

EFFECTIVE DATE: 07/22/07

Passed by the Senate March 7, 2007
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 4, 2007
YEAS 95 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 18, 2007, 11:14 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5468** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 18, 2007

**Secretary of State
State of Washington**

1 not interconnected to the electric distribution system. No incentive
2 may be paid for kilowatt-hours generated before July 1, 2005, or after
3 June 30, 2014.

4 (2) When light and power businesses serving eighty percent of the
5 total customer load in the state adopt uniform standards for
6 interconnection to the electric distribution system, any individual,
7 business, or local governmental entity, not in the light and power
8 business or in the gas distribution business, may apply to the light
9 and power business serving the situs of the system, each fiscal year,
10 for an investment cost recovery incentive for each kilowatt-hour from
11 a customer-generated electricity renewable energy system installed on
12 its property that is not interconnected to the electric distribution
13 system and from a customer-generated electricity renewable energy
14 system installed on its property that is interconnected to the electric
15 distribution system. Uniform standards for interconnection to the
16 electric distribution system means those standards established by light
17 and power businesses that have ninety percent of total requirements the
18 same. No incentive may be paid for kilowatt-hours generated before
19 July 1, 2005, or after June 30, 2014.

20 (3)(a) Before submitting for the first time the application for the
21 incentive allowed under this section, the applicant shall submit to the
22 department of revenue and to the climate and rural energy development
23 center at the Washington State University, established under RCW
24 28B.30.642, a certification in a form and manner prescribed by the
25 department that includes, but is not limited to, the following
26 information:

27 (i) The name and address of the applicant and location of the
28 renewable energy system;

29 (ii) The applicant's tax registration number;

30 (iii) That the electricity produced by the applicant meets the
31 definition of "customer-generated electricity" and that the renewable
32 energy system produces electricity with:

33 (A) Any solar inverters and solar modules manufactured in
34 Washington state;

35 (B) A wind generator powered by blades manufactured in Washington
36 state;

37 (C) A solar inverter manufactured in Washington state;

38 (D) A solar module manufactured in Washington state; or

1 (E) Solar or wind equipment manufactured outside of Washington
2 state;

3 (iv) That the electricity can be transformed or transmitted for
4 entry into or operation in parallel with electricity transmission and
5 distribution systems;

6 (v) The date that the renewable energy system received its final
7 electrical permit from the applicable local jurisdiction.

8 (b) Within thirty days of receipt of the certification the
9 department of revenue shall (~~advise~~) notify the applicant (~~in~~
10 ~~writing~~) by mail, or electronically as provided in section 113 of this
11 act, whether the renewable energy system qualifies for an incentive
12 under this section. The department may consult with the climate and
13 rural energy development center to determine eligibility for the
14 incentive. System certifications and the information contained therein
15 are subject to disclosure under RCW 82.32.330(3)(m).

16 (4)(a) By August 1st of each year application for the incentive
17 shall be made to the light and power business serving the situs of the
18 system by certification in a form and manner prescribed by the
19 department that includes, but is not limited to, the following
20 information:

21 (i) The name and address of the applicant and location of the
22 renewable energy system;

23 (ii) The applicant's tax registration number;

24 (iii) The date of the (~~letter~~) notification from the department
25 of revenue stating that the renewable energy system is eligible for the
26 incentives under this section;

27 (iv) A statement of the amount of kilowatt-hours generated by the
28 renewable energy system in the prior fiscal year.

29 (b) Within sixty days of receipt of the incentive certification the
30 light and power business serving the situs of the system shall notify
31 the applicant in writing whether the incentive payment will be
32 authorized or denied. The business may consult with the climate and
33 rural energy development center to determine eligibility for the
34 incentive payment. Incentive certifications and the information
35 contained therein are subject to disclosure under RCW 82.32.330(3)(m).

36 (c)(i) Persons receiving incentive payments shall keep and
37 preserve, for a period of five years, suitable records as may be
38 necessary to determine the amount of incentive applied for and

1 received. Such records shall be open for examination at any time upon
2 notice by the light and power business that made the payment or by the
3 department. If upon examination of any records or from other
4 information obtained by the business or department it appears that an
5 incentive has been paid in an amount that exceeds the correct amount of
6 incentive payable, the business may assess against the person for the
7 amount found to have been paid in excess of the correct amount of
8 incentive payable and shall add thereto interest on the amount.
9 Interest shall be assessed in the manner that the department assesses
10 interest upon delinquent tax under RCW 82.32.050.

11 (ii) If it appears that the amount of incentive paid is less than
12 the correct amount of incentive payable the business may authorize
13 additional payment.

14 (5) The investment cost recovery incentive may be paid fifteen
15 cents per economic development kilowatt-hour unless requests exceed the
16 amount authorized for credit to the participating light and power
17 business. For the purposes of this section, the rate paid for the
18 investment cost recovery incentive may be multiplied by the following
19 factors:

20 (a) For customer-generated electricity produced using solar modules
21 manufactured in Washington state, two and four-tenths;

22 (b) For customer-generated electricity produced using a solar or a
23 wind generator equipped with an inverter manufactured in Washington
24 state, one and two-tenths;

25 (c) For customer-generated electricity produced using an anaerobic
26 digester, or by other solar equipment or using a wind generator
27 equipped with blades manufactured in Washington state, one; and

28 (d) For all other customer-generated electricity produced by wind,
29 eight-tenths.

30 (6) No individual, household, business, or local governmental
31 entity is eligible for incentives for more than two thousand dollars
32 per year.

33 (7) If requests for the investment cost recovery incentive exceed
34 the amount of funds available for credit to the participating light and
35 power business, the incentive payments shall be reduced
36 proportionately.

37 (8) The climate and rural energy development center at Washington

1 State University energy program may establish guidelines and standards
2 for technologies that are identified as Washington manufactured and
3 therefore most beneficial to the state's environment.

4 (9) The environmental attributes of the renewable energy system
5 belong to the applicant, and do not transfer to the state or the light
6 and power business upon receipt of the investment cost recovery
7 incentive.

8 **Sec. 102.** RCW 82.24.120 and 2006 c 14 s 6 are each amended to read
9 as follows:

10 (1) If any person, subject to the provisions of this chapter or any
11 rules adopted by the department of revenue under authority hereof, is
12 found to have failed to affix the stamps required, or to have them
13 affixed as herein provided, or to pay any tax due hereunder, or to have
14 violated any of the provisions of this chapter or rules adopted by the
15 department of revenue in the administration hereof, there shall be
16 assessed and collected from such person, in addition to any tax that
17 may be found due, a remedial penalty equal to the greater of ten
18 dollars per package of unstamped cigarettes or two hundred fifty
19 dollars, plus interest on the amount of the tax at the rate as computed
20 under RCW 82.32.050(2) from the date the tax became due until the date
21 of payment, and upon notice mailed to the last known address of the
22 person or provided electronically as provided in section 113 of this
23 act. The amount shall become due and payable in thirty days from the
24 date of the notice. If the amount remains unpaid, the department or
25 its duly authorized agent may make immediate demand upon such person
26 for the payment of all such taxes, penalties, and interest.

27 (2) The department, for good reason shown, may waive or cancel all
28 or any part of penalties imposed, but the taxpayer must pay all taxes
29 due and interest thereon, at the rate as computed under RCW
30 82.32.050(2) from the date the tax became due until the date of
31 payment.

32 (3) The keeping of any unstamped articles coming within the
33 provisions of this chapter shall be prima facie evidence of intent to
34 violate the provisions of this chapter.

35 (4) This section does not apply to taxes or tax increases due under
36 RCW 82.24.280.

1 **Sec. 103.** RCW 82.24.135 and 1998 c 53 s 1 are each amended to read
2 as follows:

3 In all cases of seizure of any property made subject to forfeiture
4 under this chapter the department or the board shall proceed as
5 follows:

6 (1) Forfeiture shall be deemed to have commenced by the seizure.
7 Notice of seizure shall be given to the department or the board
8 immediately if the seizure is made by someone other than an agent of
9 the department or the board authorized to collect taxes.

10 (2) Upon notification or seizure by the department or the board or
11 upon receipt of property subject to forfeiture under this chapter from
12 any other person, the department or the board shall list and
13 particularly describe the property seized in duplicate and have the
14 property appraised by a qualified person not employed by the department
15 or the board or acting as its agent. Listing and appraisal of the
16 property shall be properly attested by the department or the board and
17 the appraiser, who shall be allowed a reasonable appraisal fee. No
18 appraisal is required if the property seized is judged by the
19 department or the board to be less than one hundred dollars in value.

20 (3) The department or the board shall cause notice to be served
21 within five days following the seizure or notification to the
22 department or the board of the seizure on the owner of the property
23 seized, if known, on the person in charge thereof, and on any other
24 person having any known right or interest therein, of the seizure and
25 intended forfeiture of the seized property. The notice may be served
26 by any method authorized by law or court rule including but not limited
27 to service by mail. The department may also furnish notice
28 electronically as provided in section 113 of this act. If service is
29 by mail (~~it shall be by both~~) or notice is provided electronically as
30 provided in section 113 of this act, the notice shall also be served by
31 certified mail with return receipt requested ((and regular mail)).
32 Electronic notification or service by mail shall be deemed complete
33 upon mailing the notice, electronically sending the notice, or
34 electronically notifying the person or persons entitled to the notice
35 that the notice is available to be accessed by the person or persons,
36 within the five-day period following the seizure or notification of the
37 seizure to the department or the board.

1 (4) If no person notifies the department or the board in writing of
2 the person's claim of ownership or right to possession of the items
3 seized within fifteen days of the date of the notice of seizure, the
4 item seized shall be considered forfeited.

5 (5) If any person notifies the department or the board, in writing,
6 of the person's claim of ownership or right to possession of the items
7 seized within fifteen days of the date of the notice of seizure, the
8 person or persons shall be afforded a reasonable opportunity to be
9 heard as to the claim or right. The hearing shall be before the
10 director or the director's designee or the board or the board's
11 designee, except that any person asserting a claim or right may bring
12 an action for return of the seized items in the superior court of the
13 county in which such property was seized, if the aggregate value of the
14 article or articles involved is more than five hundred dollars. A
15 hearing and any appeal therefrom shall be in accordance with chapter
16 34.05 RCW. The burden of proof by a preponderance of the evidence
17 shall be upon the person claiming to be the lawful owner or the person
18 claiming to have the lawful right to possession of the items seized.
19 The department or the board shall promptly return the article or
20 articles to the claimant upon a determination that the claimant is the
21 present lawful owner or is lawfully entitled to possession thereof of
22 the items seized.

23 **Sec. 104.** RCW 82.24.280 and 1996 c 149 s 10 are each amended to
24 read as follows:

25 (1) Any additional tax liability arising from a tax rate increase
26 under this chapter shall be paid, along with reports and returns
27 prescribed by the department, on or before the last day of the month in
28 which the increase becomes effective.

29 (2) If not paid by the due date, interest shall apply to any unpaid
30 tax. Interest shall be calculated at the rate as computed under RCW
31 82.32.050(2) from the date the tax became due until the date of
32 payment.

33 (3) If upon examination of any returns or from other information
34 obtained by the department it appears that a tax or penalty has been
35 paid less than that properly due, the department shall assess against
36 the taxpayer such additional amount found to be due. The department
37 shall notify the taxpayer by mail, or electronically as provided in

1 section 113 of this act, of the additional amount due, including any
2 applicable penalties and interest. The taxpayer shall pay the
3 additional amount within thirty days from the date of the notice, or
4 within such further time as the department may provide.

5 (4) All of chapter 82.32 RCW applies to tax rate increases except:
6 RCW 82.32.050(1) and 82.32.270.

7 **Sec. 105.** RCW 82.32.033 and 2004 c 253 s 1 are each amended to
8 read as follows:

9 (1) A promoter of a special event within the state of Washington
10 shall not permit a vendor to make or solicit retail sales of tangible
11 personal property or services at the special event unless the promoter
12 makes a good faith effort to obtain verification that the vendor has
13 obtained a certificate of registration from the department.

14 (2) A promoter of a special event shall:

15 (a) Keep, in addition to the records required under RCW 82.32.070,
16 a record of the dates and place of each special event, and the name,
17 address, and registration certificate number of each vendor permitted
18 to make or solicit retail sales of tangible personal property or
19 services at the special event. The record of the date and place of a
20 special event, and the name, address, and registration certificate
21 number of each vendor at the event shall be preserved for a period of
22 one year from the date of a special event; and

23 (b) Provide to the department, within twenty days of receipt of a
24 written request from the department, a list of vendors permitted to
25 make or solicit retail sales of tangible personal property or services.
26 The list shall be in a form and contain such information as the
27 department may require, and shall include the date and place of the
28 event, and the name, address, and registration certificate number of
29 each vendor.

30 (3) If a promoter fails to make a good faith effort to comply with
31 the provisions of this section, the promoter is liable for the
32 penalties provided in this subsection (3).

33 (a) If a promoter fails to make a good faith effort to comply with
34 the provisions of subsection (1) of this section, the department shall
35 impose a penalty of one hundred dollars for each vendor permitted to
36 make or solicit retail sales of tangible personal property or services
37 at the special event.

1 (b) If a promoter fails to make a good faith effort to comply with
2 the provisions of subsection (2)(b) of this section, the department
3 shall impose a penalty of:

4 (i) Two hundred fifty dollars if the information requested is not
5 received by the department within twenty days of the department's
6 written request; and

7 (ii) One hundred dollars for each vendor for whom the information
8 as required by subsection (2)(b) of this section is not provided to the
9 department.

10 (4) The aggregate of penalties imposed under subsection (3) of this
11 section may not exceed two thousand five hundred dollars for a special
12 event if the promoter has not previously been penalized under this
13 section. Under no circumstances is a promoter liable for sales tax or
14 business and occupation tax not remitted to the department by a vendor
15 at a special event.

16 (5) The department shall notify a promoter by mail, or
17 electronically as provided in section 113 of this act, of any penalty
18 imposed under this section, and the penalty shall be due within thirty
19 days from the date of the notice. If any penalty imposed under this
20 section is not received by the department by the due date, there shall
21 be assessed interest on the unpaid amount beginning the day following
22 the due date until the penalty is paid in full. The rate of interest
23 shall be computed on a daily basis on the amount of outstanding penalty
24 at the rate as computed under RCW 82.32.050(2). The rate computed
25 shall be adjusted annually in the same manner as provided in RCW
26 82.32.050(1)(c).

27 (6) For purposes of this section:

28 (a) "Promoter" means a person who organizes, operates, or sponsors
29 a special event and who contracts with vendors for participation in the
30 special event.

31 (b) "Special event" means an entertainment, amusement,
32 recreational, educational, or marketing event, whether held on a
33 regular or irregular basis, at which more than one vendor makes or
34 solicits retail sales of tangible personal property or services. The
35 term includes, but is not limited to: Auto shows, recreational vehicle
36 shows, boat shows, home shows, garden shows, hunting and fishing shows,
37 stamp shows, comic book shows, sports memorabilia shows, craft shows,
38 art shows, antique shows, flea markets, exhibitions, festivals,

1 concerts, swap meets, bazaars, carnivals, athletic contests, circuses,
2 fairs, or other similar activities. "Special event" does not include
3 an event that is organized for the exclusive benefit of any nonprofit
4 organization as defined in RCW 82.04.3651. An event is organized for
5 the exclusive benefit of a nonprofit organization if all of the gross
6 proceeds of retail sales of all vendors at the event inure to the
7 benefit of the nonprofit organization on whose behalf the event is
8 being held. "Special event" does not include athletic contests that
9 involve competition between teams, when such competition consists of
10 more than five contests in a calendar year by at least one team at the
11 same facility or site.

12 (c) "Vendor" means a person who, at a special event, makes or
13 solicits retail sales of tangible personal property or services.

14 (7) "Good faith effort to comply" and "good faith effort to obtain"
15 may be shown by, but is not limited to, circumstances where a promoter:

16 (a) Includes a statement on all written contracts with its vendors
17 that a valid registration certificate number issued by the department
18 of revenue is required for participation in the special event and
19 requires vendors to indicate their registration certificate number on
20 these contracts; and

21 (b) Provides the department with a list of vendors and their
22 associated registration certificate numbers as provided in subsection
23 (2)(b) of this section.

24 (8) This section does not apply to:

25 (a) A special event whose promoter does not charge more than two
26 hundred dollars for a vendor to participate in a special event;

27 (b) A special event whose promoter charges a percentage of sales
28 instead of, or in addition to, a flat charge for a vendor to
29 participate in a special event if the promoter, in good faith, believes
30 that no vendor will pay more than two hundred dollars to participate in
31 the special event; or

32 (c) A person who does not organize, operate, or sponsor a special
33 event, but only provides a venue, supplies, furnishings, fixtures,
34 equipment, or services to a promoter of a special event.

35 **Sec. 106.** RCW 82.32.050 and 2003 c 73 s 1 are each amended to read
36 as follows:

37 (1) If upon examination of any returns or from other information

1 obtained by the department it appears that a tax or penalty has been
2 paid less than that properly due, the department shall assess against
3 the taxpayer such additional amount found to be due and shall add
4 thereto interest on the tax only. The department shall notify the
5 taxpayer by mail, or electronically as provided in section 113 of this
6 act, of the additional amount and the additional amount shall become
7 due and shall be paid within thirty days from the date of the notice,
8 or within such further time as the department may provide.

9 (a) For tax liabilities arising before January 1, 1992, interest
10 shall be computed at the rate of nine percent per annum from the last
11 day of the year in which the deficiency is incurred until the earlier
12 of December 31, 1998, or the date of payment. After December 31, 1998,
13 the rate of interest shall be variable and computed as provided in
14 subsection (2) of this section. The rate so computed shall be adjusted
15 on the first day of January of each year for use in computing interest
16 for that calendar year.

17 (b) For tax liabilities arising after December 31, 1991, the rate
18 of interest shall be variable and computed as provided in subsection
19 (2) of this section from the last day of the year in which the
20 deficiency is incurred until the date of payment. The rate so computed
21 shall be adjusted on the first day of January of each year for use in
22 computing interest for that calendar year.

23 (c) Interest imposed after December 31, 1998, shall be computed
24 from the last day of the month following each calendar year included in
25 a notice, and the last day of the month following the final month
26 included in a notice if not the end of a calendar year, until the due
27 date of the notice. If payment in full is not made by the due date of
28 the notice, additional interest shall be computed until the date of
29 payment. The rate of interest shall be variable and computed as
30 provided in subsection (2) of this section. The rate so computed shall
31 be adjusted on the first day of January of each year for use in
32 computing interest for that calendar year.

33 (2) For the purposes of this section, the rate of interest to be
34 charged to the taxpayer shall be an average of the federal short-term
35 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.
36 The rate set for each new year shall be computed by taking an
37 arithmetical average to the nearest percentage point of the federal
38 short-term rate, compounded annually. That average shall be calculated

1 using the rates from four months: January, April, and July of the
2 calendar year immediately preceding the new year, and October of the
3 previous preceding year.

4 (3) No assessment or correction of an assessment for additional
5 taxes, penalties, or interest due may be made by the department more
6 than four years after the close of the tax year, except (a) against a
7 taxpayer who has not registered as required by this chapter, (b) upon
8 a showing of fraud or of misrepresentation of a material fact by the
9 taxpayer, or (c) where a taxpayer has executed a written waiver of such
10 limitation. The execution of a written waiver shall also extend the
11 period for making a refund or credit as provided in RCW 82.32.060(2).

12 (4) For the purposes of this section, "return" means any document
13 a person is required by the state of Washington to file to satisfy or
14 establish a tax or fee obligation that is administered or collected by
15 the department of revenue and that has a statutorily defined due date.

16 **Sec. 107.** RCW 82.32.100 and 1992 c 169 s 3 are each amended to
17 read as follows:

18 (1) If any person fails or refuses to make any return or to make
19 available for examination the records required by this chapter, the
20 department shall proceed, in such manner as it may deem best, to obtain
21 facts and information on which to base its estimate of the tax; and to
22 this end the department may examine the records of any such person as
23 provided in RCW 82.32.110.

24 (2) As soon as the department procures such facts and information
25 as it is able to obtain upon which to base the assessment of any tax
26 payable by any person who has failed or refused to make a return, it
27 shall proceed to determine and assess against such person the tax and
28 any applicable penalties or interest due, but such action shall not
29 deprive such person from appealing the assessment as provided in this
30 chapter. The department shall notify the taxpayer by mail, or
31 electronically as provided in section 113 of this act, of the total
32 amount of such tax, penalties, and interest, and the total amount shall
33 become due and shall be paid within thirty days from the date of such
34 notice.

35 (3) No assessment or correction of an assessment may be made by the
36 department more than four years after the close of the tax year, except
37 (a) against a taxpayer who has not registered as required by this

1 chapter, (b) upon a showing of fraud or of misrepresentation of a
2 material fact by the taxpayer, or (c) where a taxpayer has executed a
3 written waiver of such limitation. The execution of a written waiver
4 shall also extend the period for making a refund or credit as provided
5 in RCW 82.32.060(2).

6 **Sec. 108.** RCW 82.32.130 and 1979 ex.s. c 95 s 2 are each amended
7 to read as follows:

8 Notwithstanding any other law, any notice or order required by this
9 title to be mailed to any taxpayer may be provided electronically as
10 provided in section 113 of this act, served in the manner prescribed by
11 law for personal service of summons and complaint in the commencement
12 of actions in the superior courts of the state(~~(, but)~~). However if
13 the notice or order is mailed, it shall be addressed to the address of
14 the taxpayer as shown by the records of the department (~~(of revenue)~~),
15 or, if no such address is shown, to such address as the department is
16 able to ascertain by reasonable effort. Failure of the taxpayer to
17 receive such notice or order whether served (~~(or)~~), mailed, or provided
18 electronically as provided in section 113 of this act shall not release
19 the taxpayer from any tax or any increases or penalties thereon.

20 **Sec. 109.** RCW 82.32.140 and 2003 1st sp.s. c 13 s 12 are each
21 amended to read as follows:

22 (1) Whenever any taxpayer quits business, or sells out, exchanges,
23 or otherwise disposes of more than fifty percent of the fair market
24 value of either its tangible or intangible assets, any tax payable
25 hereunder shall become immediately due and payable, and such taxpayer
26 shall, within ten days thereafter, make a return and pay the tax due.

27 (2) Any person who becomes a successor shall withhold from the
28 purchase price a sum sufficient to pay any tax due from the taxpayer
29 until such time as the taxpayer shall produce a receipt from the
30 department of revenue showing payment in full of any tax due or a
31 certificate that no tax is due. If any tax is not paid by the taxpayer
32 within ten days from the date of such sale, exchange, or disposal, the
33 successor shall become liable for the payment of the full amount of
34 tax. If the fair market value of the assets acquired by a successor is
35 less than fifty thousand dollars, the successor's liability for payment

1 of the unpaid tax is limited to the fair market value of the assets
2 acquired from the taxpayer. The burden of establishing the fair market
3 value of the assets acquired is on the successor.

4 (3) The payment of any tax by a successor shall, to the extent
5 thereof, be deemed a payment upon the purchase price; and if such
6 payment is greater in amount than the purchase price the amount of the
7 difference shall become a debt due the successor from the taxpayer.

8 (4) No successor shall be liable for any tax due from the person
9 from whom the successor has acquired a business or stock of goods if
10 the successor gives written notice to the department of revenue of such
11 acquisition and no assessment is issued by the department of revenue
12 within six months of receipt of such notice against the former operator
13 of the business and a copy thereof mailed to the successor or provided
14 electronically to the successor in accordance with section 113 of this
15 act.

16 **Sec. 110.** RCW 82.32.160 and 1989 c 378 s 22 are each amended to
17 read as follows:

18 Any person having been issued a notice of additional taxes,
19 delinquent taxes, interest, or penalties assessed by the department,
20 may within thirty days after the issuance of the original notice of the
21 amount thereof or within the period covered by any extension of the due
22 date thereof granted by the department petition the department in
23 writing for a correction of the amount of the assessment, and a
24 conference for examination and review of the assessment. The petition
25 shall set forth the reasons why the correction should be granted and
26 the amount of the tax, interest, or penalties, which the petitioner
27 believes to be due. The department shall promptly consider the
28 petition and may grant or deny it. If denied, the petitioner shall be
29 notified by mail, or electronically as provided in section 113 of this
30 act, thereof forthwith. If a conference is granted, the department
31 shall fix the time and place therefor and notify the petitioner thereof
32 by mail or electronically as provided in section 113 of this act.
33 After the conference the department may make such determination as may
34 appear to it to be just and lawful and shall mail a copy of its
35 determination to the petitioner, or provide a copy of its determination
36 electronically as provided in section 113 of this act. If no such

1 petition is filed within the thirty-day period the assessment covered
2 by the notice shall become final.

3 The procedures provided for herein shall apply also to a notice
4 denying, in whole or in part, an application for a pollution control
5 tax exemption and credit certificate, with such modifications to such
6 procedures established by departmental rules and regulations as may be
7 necessary to accommodate a claim for exemption or credit.

8 **Sec. 111.** RCW 82.32.170 and 1967 ex.s. c 26 s 50 are each amended
9 to read as follows:

10 Any person, having paid any tax, original assessment, additional
11 assessment, or corrected assessment of any tax, may apply to the
12 department within the time limitation for refund provided in this
13 chapter, by petition in writing for a correction of the amount paid,
14 and a conference for examination and review of the tax liability, in
15 which petition he shall set forth the reasons why the conference should
16 be granted, and the amount in which the tax, interest, or penalty,
17 should be refunded. The department shall promptly consider the
18 petition, and may grant or deny it. If denied, the petitioner shall be
19 notified by mail, or electronically as provided in section 113 of this
20 act, thereof forthwith((+)). If a conference is granted, the
21 department shall notify the petitioner by mail, or electronically as
22 provided in section 113 of this act, of the time and place fixed
23 therefor. After the hearing the department may make such determination
24 as may appear to it just and lawful, and shall mail a copy of its
25 determination to the petitioner, or provide a copy of its determination
26 electronically as provided in section 113 of this act.

27 **Sec. 112.** RCW 82.45.100 and 1997 c 157 s 4 are each amended to
28 read as follows:

29 (1) Payment of the tax imposed under this chapter is due and
30 payable immediately at the time of sale, and if not paid within one
31 month thereafter shall bear interest from the time of sale until the
32 date of payment.

33 (a) Interest imposed before January 1, 1999, shall be computed at
34 the rate of one percent per month.

35 (b) Interest imposed after December 31, 1998, shall be computed on
36 a monthly basis at the rate as computed under RCW 82.32.050(2). The

1 rate so computed shall be adjusted on the first day of January of each
2 year for use in computing interest for that calendar year. The
3 department of revenue shall provide written notification to the county
4 treasurers of the variable rate on or before December 1st of the year
5 preceding the calendar year in which the rate applies.

6 (2) In addition to the interest described in subsection (1) of this
7 section, if the payment of any tax is not received by the county
8 treasurer or the department of revenue, as the case may be, within one
9 month of the date due, there shall be assessed a penalty of five
10 percent of the amount of the tax; if the tax is not received within two
11 months of the date due, there shall be assessed a total penalty of ten
12 percent of the amount of the tax; and if the tax is not received within
13 three months of the date due, there shall be assessed a total penalty
14 of twenty percent of the amount of the tax. The payment of the penalty
15 described in this subsection shall be collectible from the seller only,
16 and RCW 82.45.070 does not apply to the penalties described in this
17 subsection.

18 (3) If the tax imposed under this chapter is not received by the
19 due date, the transferee shall be personally liable for the tax, along
20 with any interest as provided in subsection (1) of this section,
21 unless:

22 (a) An instrument evidencing the sale is recorded in the official
23 real property records of the county in which the property conveyed is
24 located; or

25 (b) Either the transferor or transferee notifies the department of
26 revenue in writing of the occurrence of the sale within thirty days
27 following the date of the sale.

28 (4) If upon examination of any affidavits or from other information
29 obtained by the department or its agents it appears that all or a
30 portion of the tax is unpaid, the department shall assess against the
31 taxpayer the additional amount found to be due plus interest and
32 penalties as provided in subsections (1) and (2) of this section. The
33 department shall notify the taxpayer by mail, or electronically as
34 provided in section 113 of this act, of the additional amount and the
35 same shall become due and shall be paid within thirty days from the
36 date of the notice, or within such further time as the department may
37 provide.

1 (5) No assessment or refund may be made by the department more than
2 four years after the date of sale except upon a showing of:

3 (a) Fraud or misrepresentation of a material fact by the taxpayer;

4 (b) A failure by the taxpayer to record documentation of a sale or
5 otherwise report the sale to the county treasurer; or

6 (c) A failure of the transferor or transferee to report the sale
7 under RCW 82.45.090(2).

8 (6) Penalties collected on taxes due under this chapter under
9 subsection (2) of this section and RCW 82.32.090 (2) through (~~(6)~~)
10 (7) shall be deposited in the housing trust fund as described in
11 chapter 43.185 RCW.

12 NEW SECTION. **Sec. 113.** A new section is added to chapter 82.32
13 RCW to read as follows:

14 (1) Whenever the department is required to send any assessment,
15 notice, or any other information to persons by regular mail, the
16 department may instead provide the assessment, notice, or other
17 information electronically if the following conditions are met:

18 (a) The person entitled to receive the information has authorized
19 the department in writing, electronically or otherwise, to provide the
20 assessment, notice, or other information electronically; and

21 (b) If the assessment, notice, or other information is subject to
22 the confidentiality provisions of RCW 82.32.330, the department must
23 use methods reasonably designed to protect the information from
24 unauthorized disclosure. The provisions of this subsection (1)(b) may
25 be waived by a taxpayer. The waiver must be in writing and may be
26 provided to the department electronically. A person may provide a
27 waiver with respect to a particular item of information or may give a
28 blanket waiver with respect to any item of information or certain items
29 of information to be provided electronically. A blanket waiver will
30 continue until revoked in writing by the taxpayer. Such revocation may
31 be provided to the department electronically in a manner provided or
32 approved by the department.

33 (2) A person may authorize the department under subsection (1)(a)
34 of this section to provide a particular item of information
35 electronically or may give blanket authorization to provide any item of
36 information or certain items of information electronically. Such

1 blanket authorization will continue until revoked in writing by the
2 taxpayer. Such revocation may be provided to the department
3 electronically in a manner provided or approved by the department.

4 (3) Any assessment, notice, or other information provided by the
5 department electronically to a person is deemed to be received by the
6 taxpayer on the date that the department electronically sends the
7 information to the person or electronically notifies the person that
8 the information is available to be accessed by the person.

9 (4) This section also applies to any information that is not
10 expressly required by statute to be sent by regular mail, but is
11 customarily sent by the department using regular mail, to persons
12 entitled to receive the information.

13 **PART 2**

14 **PENALTY WAIVERS FOR CENTRALLY ASSESSED UTILITIES**

15 **Sec. 201.** RCW 84.12.260 and 1984 c 132 s 2 are each amended to
16 read as follows:

17 (1) If any company shall fail to materially comply with the
18 provisions of RCW 84.12.230, the department shall add to the value of
19 such company, as a penalty for such failure, five percent for every
20 thirty days or fraction thereof, not to exceed ten percent, that the
21 company fails to comply.

22 (2) If any company, or any of its officers or agents shall refuse
23 or neglect to make any report required by this chapter, or by the
24 department of revenue, or shall refuse to permit an inspection and
25 examination of its records, books, accounts, papers or property
26 requested by the department of revenue, or shall refuse or neglect to
27 appear before the department of revenue in obedience to a subpoena, the
28 department of revenue shall inform itself to the best of its ability of
29 the matters required to be known, in order to discharge its duties with
30 respect to valuation and assessment of the property of such company,
31 and the department shall add to the value so ascertained twenty-five
32 percent as a penalty for such failure or refusal and such company shall
33 be estopped to question or impeach the assessment of the department in
34 any hearing or proceeding thereafter. Such penalty shall be in lieu of
35 the penalty provided for in subsection (1) of this section.

1 (3) The department shall waive or cancel the penalty imposed under
2 subsection (1) of this section for good cause shown.

3 (4) The department shall waive or cancel the penalty imposed under
4 subsection (1) of this section when the circumstances under which the
5 failure to materially comply with the provisions of RCW 84.12.230 do
6 not qualify for waiver or cancellation under subsection (3) of this
7 section if:

8 (a) The company fully complies with the reporting provisions of RCW
9 84.12.230 within thirty days of the due date or any extension granted
10 by the department; and

11 (b) The company has timely complied with the provisions of RCW
12 84.12.230 for the previous two calendar years. The requirement that a
13 company has timely complied with the provisions of RCW 84.12.230 for
14 the previous two calendar years is waived for any calendar year in
15 which the company was not required to comply with the provisions of RCW
16 84.12.230.

17 **Sec. 202.** RCW 84.16.036 and 1984 c 132 s 3 are each amended to
18 read as follows:

19 (1) If any company shall fail to comply with the provisions of RCW
20 84.16.020, the department shall add to the value of such company, as a
21 penalty for such failure, five percent for every thirty days or
22 fraction thereof, not to exceed ten percent, that the company fails to
23 comply.

24 (2) If any company, or its officer or agent, shall refuse or
25 neglect to make any report required by this chapter, or by the
26 department of revenue, or shall refuse or neglect to permit an
27 inspection and examination of its records, books, accounts, papers or
28 property requested by the department of revenue, or shall refuse or
29 neglect to appear before the department in obedience to a summons, the
30 department shall inform itself the best it may of the matters to be
31 known, in order to discharge its duties with respect to valuation and
32 assessment of the property of such company; and the department shall
33 add to the value so ascertained twenty-five percent as a penalty for
34 the failure or refusal of such company to make its report and such
35 company shall be estopped to question or impeach the assessment of the
36 department of revenue in any hearing or proceeding thereafter. Such

1 penalty shall be in lieu of the penalty provided for in subsection (1)
2 of this section.

3 (3) The department shall waive or cancel the penalty imposed under
4 subsection (1) of this section for good cause shown.

5 (4) The department shall waive or cancel the penalty imposed under
6 subsection (1) of this section when the circumstances under which the
7 failure to materially comply with the provisions of RCW 84.16.020 do
8 not qualify for waiver or cancellation under subsection (3) of this
9 section if:

10 (a) The company fully complies with the reporting provisions of RCW
11 84.16.020 within thirty days of the due date; and

12 (b) The company has timely complied with the provisions of RCW
13 84.16.020 for the previous two calendar years. The requirement that a
14 company has timely complied with the provisions of RCW 84.16.020 for
15 the previous two calendar years is waived for any calendar year in
16 which the company was not required to comply with the provisions of RCW
17 84.16.020.

18 NEW SECTION. Sec. 203. Sections 201 and 202 of this act apply
19 with respect to annual reports and annual statements originally due on
20 or after the effective date of this section.

21 **PART 3**

22 **ELECTRONIC FILING OF PROPERTY TAX EXEMPTION RENEWAL**

23 **DECLARATIONS AND ELIMINATING FEES**

24 **Sec. 301.** RCW 84.36.815 and 2001 c 126 s 4 are each amended to
25 read as follows:

26 (1) In order to qualify for exempt status for any real or personal
27 property under this chapter except personal property under RCW
28 84.36.600, all foreign national governments; cemeteries;
29 nongovernmental nonprofit corporations, organizations, and
30 associations; hospitals owned and operated by a public hospital
31 district for purposes of exemption under RCW 84.36.040(2); and soil and
32 water conservation districts shall file an initial application on or
33 before March 31st with the state department of revenue. All
34 applications shall be filed on forms prescribed by the department and
35 shall be signed by an authorized agent of the applicant.

1 (2) In order to requalify for exempt status, all applicants except
2 nonprofit cemeteries shall file an annual renewal declaration on or
3 before March 31st each year. The renewal declaration shall be on forms
4 prescribed by the department of revenue and shall contain ~~((an~~
5 ~~affidavit))~~ a statement certifying the exempt status of the real or
6 personal property owned by the exempt organization. This renewal
7 declaration may be submitted electronically in a format provided or
8 approved by the department. Information may also be required with the
9 renewal declaration to assist the department in determining whether the
10 property tax exemption should continue.

11 (3) When an organization acquires real property qualified for
12 exemption or converts real property to exempt status, ~~((such))~~ the
13 organization shall file an initial application for the property within
14 sixty days following the acquisition or conversion in accordance with
15 all applicable provisions of subsection (1) of this section. If the
16 application is filed after the expiration of the sixty-day period, a
17 late filing penalty shall be imposed ~~((pursuant to))~~ under RCW
18 84.36.825~~((, as now or hereafter amended))~~.

19 (4) When organizations acquire real property qualified for
20 exemption or convert real property to an exempt use, the property, upon
21 approval of the application for exemption, is entitled to a property
22 tax exemption for property taxes due and payable the following year.
23 If the owner has paid taxes for the year following the year the
24 property qualified for exemption, the owner is entitled to a refund of
25 the amount paid on the property so acquired or converted.

26 **Sec. 302.** RCW 84.36.820 and 1984 c 220 s 11 are each amended to
27 read as follows:

28 On or before January 1st of each year, the department of revenue
29 shall ~~((mail application forms to))~~ notify the owners of record of
30 property exempted from property taxation at their last known address
31 ~~((who must))~~ about the obligation to file ~~((annually))~~ an annual
32 renewal declaration for continued exemption. When a continued
33 exemption is not approved, the department ~~((of revenue))~~ shall notify
34 the assessor of the county in which the property is located who, in
35 turn, shall remove the tax exemption from ~~((any))~~ the property ~~((if an~~
36 ~~application has not been approved for exemption: PROVIDED, That))~~.
37 The failure to file an annual renewal declaration for continued

1 exemption and subsequent removal of the exemption shall not be subject
2 to review as provided in RCW 84.36.850(~~(:—PROVIDED FURTHER, That)~~).
3 The department of revenue shall review applications received after the
4 March 31st due date, but (~~(such)~~) these applications shall be subject
5 to late filing penalties provided in RCW 84.36.825 (~~(as now or~~
6 ~~hereafter amended)~~).

7 **Sec. 303.** RCW 84.36.825 and 1998 c 311 s 28 are each amended to
8 read as follows:

9 (~~(An application fee of thirty five dollars for each initial~~
10 ~~application and eight dollars and seventy five cents for each annual~~
11 ~~renewal declaration shall be required and shall be deposited within the~~
12 ~~general fund. The department of revenue may waive the application or~~
13 ~~declaration fee related to the property of any church or cemetery~~
14 ~~applying for exemption under the provisions of RCW 84.36.020 whose~~
15 ~~gross receipts related to the use of such property for exempt purposes~~
16 ~~did not exceed two thousand five hundred dollars during the calendar~~
17 ~~year preceding the application year.)) A late filing penalty of ten
18 dollars per month for each month an application or annual renewal
19 declaration is past due shall be required and shall be deposited in the
20 general fund.~~

21 **Sec. 304.** RCW 84.36.830 and 1998 c 310 s 1 are each amended to
22 read as follows:

23 (1) The department of revenue shall review each application for
24 exemption and (~~(make a determination thereon prior to)~~) approve or deny
25 the application before August 1st of the assessment year for which
26 (~~(such)~~) the application is made(~~(:—PROVIDED, That each)~~). However,
27 exemption applications received after March 31st shall be reviewed and
28 determination made thereon within thirty days of the date received or
29 by August 1st, whichever is later.

30 (2) The department (~~(of revenue)~~) may request (~~(such)~~) additional
31 relevant information as it deems necessary. The department (~~(of~~
32 ~~revenue shall make a physical inspection of)~~) may also physically
33 inspect the property and satisfy itself as to the use of all parcels
34 (~~(prior to)~~) before approving or denying the application(~~(, and~~
35 ~~thereafter)~~). After approving an application, the department may also

1 physically inspect the property at regular intervals (~~((designed))~~) to
2 (~~((insure))~~) ensure compliance with this chapter.

3 (3) When the department (~~((of revenue))~~) has examined the application
4 and, if applicable, the subject property, it shall either approve or
5 deny the request and clearly state the reasons for denial in written
6 notification by mail to the applicant. The department shall also
7 notify the assessor of the county in which the property is located.
8 The county assessor shall place (~~((such))~~) the property on the assessment
9 roll for the current year.

10 **Sec. 305.** RCW 84.36.840 and 1973 2nd ex.s. c 40 s 14 are each
11 amended to read as follows:

12 (1) In order to determine whether organizations, associations,
13 corporations, or institutions, except those exempted under RCW
14 84.36.020 and 84.36.030, are exempt from property taxes (~~((within the
15 intent of this chapter))~~), and before the exemption shall be allowed for
16 any year, the superintendent or manager or other proper officer of the
17 organization, association, corporation, or institution claiming
18 exemption from taxation shall file (~~((r))~~) with the department of revenue
19 (~~((on forms furnished by the director,))~~) a (~~((signed))~~) statement (~~((made
20 under oath))~~) certifying that the income and the receipts thereof,
21 including donations to it, have been applied to the actual expenses of
22 operating and maintaining it, or for its capital expenditures, and to
23 no other purpose. (~~((Such forms))~~) This report shall also include a
24 statement of the receipts and disbursements of (~~((said))~~) the exempt
25 organization (~~((: PROVIDED, That))~~), association, corporation, or
26 institution.

27 (2) Educational institutions claiming exemption under RCW 84.36.050
28 shall also file (~~((in addition))~~) a list of all property claimed to be
29 exempt, the purpose for which it is used, the revenue derived from it
30 for the preceding year, the use to which (~~((such))~~) the revenue was
31 applied, the number of students (~~((in attendance at))~~) who attended the
32 school or college, the total revenues of the institution with the
33 source from which they were derived, and the purposes to which (~~((such))~~)
34 the revenues were applied, (~~((giving))~~) listing the items of such
35 revenues and expenditures in detail.

36 (~~((Such))~~) (3) The reports required under subsections (1) and (2) of
37 this section may be submitted electronically, in a format provided or

1 approved by the department, or mailed to the department. The reports
2 shall be submitted on or before (~~April 1st following the close of the~~
3 ~~accounting period for the fiscal year ended during the previous~~
4 ~~calendar~~) March 31st of each year. The department (~~(of revenue)~~)
5 shall remove the tax exemption from the property (~~(and assets)~~) of any
6 organization, association, corporation, or institution (~~(which)~~) that
7 does not file (~~(such)~~) the required report with the department (~~(of~~
8 ~~revenue)~~) on or before the due date(~~(: PROVIDED, That)~~). However, the
9 department (~~(of revenue)~~) shall allow a reasonable extension of time
10 for filing upon receipt of a written request (~~(filed)~~) on or before the
11 required filing date and for good cause shown therein.

12 **PART 4**

13 **MISCELLANEOUS**

14 NEW SECTION. Sec. 401. Part headings used in this act are not any
15 part of the law.

Passed by the Senate March 7, 2007.

Passed by the House April 4, 2007.

Approved by the Governor April 18, 2007.

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