ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1597

Chapter 106, Laws of 2010

61st Legislature
2010 Regular Session

EXCISE, ESTATE, PROPERTY TAXES--CONFIDENTIALITY--CLARIFICATIONS

EFFECTIVE DATE: 07/01/10 - Except section 212, which becomes effective 01/01/11; and section 236, which becomes effective 01/01/14.

Passed by the House February 16, 2010
Yeas 98  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 9, 2010
Yeas 48  Nays 0

BRAD OWEN
President of the Senate

Approved March 18, 2010, 2:26 p.m.

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1597 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BART BARBARA BAKER
Chief Clerk

FILED
March 18, 2010

CHRISTINE GREGOIRE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to improving the administration of state and local tax programs without impacting tax collections by providing greater consistency in numerous tax incentive programs, revising provisions relating to the confidentiality and disclosure of tax information, and amending statutes to improve clarity and consistency, eliminate obsolete provisions, and simplify administration; amending RCW 42.56.230, 82.16.120, 82.32.480, 82.60.100, 82.62.080, 82.63.070, 82.74.070, 82.75.060, 83.100.210, 39.100.050, 82.04.060, 82.04.190, 82.04.280, 82.04.280, 82.04.3651, 82.04.394, 82.08.010, 82.08.020, 82.08.020, 82.08.0256, 82.08.02573, 82.08.0273, 82.08.0293, 82.08.865, 82.08.700, 82.12.0257, 82.12.040, 82.12.865, 82.14.020, 82.16.110, 82.32.080, 82.32.440, 82.36.440, 82.38.280, 82.62.010, 82.80.120, 83.100.040, 83.100.046, 83.100.046, 29A.36.210, 36.68.525, 36.69.145, 84.36.040, 84.36.381, 84.36.385, 84.37.030, 84.37.902, 84.48.050, 84.52.030, 84.52.070, and 84.52.080; amending 2009 c 461 s 9 (uncodified); reenacting and amending RCW 82.32.330, 82.04.050, 82.04.360, 82.08.050, 82.16.010, 82.32.520, 82.32.730, 84.34.020, and 84.36.383; adding a new section to chapter 35.102 RCW; adding a new section to chapter 82.32 RCW; creating new sections; repealing RCW 84.55.080; providing effective dates; providing expiration dates; and
providing a contingent expiration date.

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

PART I

CONFIDENTIALITY

NEW SECTION. Sec. 101. A new section is added to chapter 35.102 RCW to read as follows:

A city that imposes a business and occupation tax may by ordinance provide that return or tax information is confidential, privileged, and subject to disclosure in the manner provided by RCW 82.32.330.

Sec. 102. RCW 42.56.230 and 2009 c 510 s 8 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(4) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law;

(5) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093; and

(6) Documents and related materials and scanned images of documents
and related materials used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

Sec. 103. RCW 82.16.120 and 2009 c 469 s 505 are each amended to read as follows:

(1) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system. No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

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

(ii) The applicant's tax registration number;

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

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

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

(C) A solar inverter manufactured in Washington state;

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

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

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems;
(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(({(m)}) (l)).

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

(i) The name and address of the applicant and location of the renewable energy system;
(ii) The applicant's tax registration number;
(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section;
(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

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

(c)(i) Persons receiving incentive payments ((shall)) must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records ((shall)) must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an
incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and \( ((\text{shall})) \text{ must} \) add thereto interest on the amount. Interest \( ((\text{shall be}) \) is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

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

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;
(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;
(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and
(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5) No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year. Each applicant in a community solar project is eligible for up to five thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments \( ((\text{shall}) \text{ must}) \) be reduced proportionately.
(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

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

Sec. 104. RCW 82.32.330 and 2009 c 563 s 213 and 2009 c 309 s 2 are each reenacted and amended to read as follows:

(1) For purposes of this section:
   (a) "Disclose" means to make known to any person in any manner whatever a return or tax information;
   (b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;
   (c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter ((shall))
requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under this title (82 RCW) or chapter 83.100 RCW is a party in the proceeding;

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding; or

(iii) Brought by the department under RCW 18.27.040 or 19.28.071;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides
for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;  

(c) Disclosing the name of a taxpayer ((with a deficiency greater than five thousand dollars and)) against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department is not required to disclose any information under this subsection if a taxpayer((:  

- Has been issued a tax assessment; 
- Has been issued a warrant that has not been filed; and 
- Has entered a deferred payment arrangement with the department ((of revenue)) for the payment of a warrant that has not been filed and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;  

(d) ((Disclosing the name of a taxpayer with a deficiency greater than five thousand dollars and against whom a warrant under RCW 82.32.210 has been filed with a court of record and remains outstanding;  

(e) )) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;  

((e)) (e) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;  

((f)) (f) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;  

((g)) (g) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court
proceeding for which the return or tax information originally was sought;

(1) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(2) Disclosing any such return or tax information to the United States Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Defense, the Immigration and Customs Enforcement and the Customs and Border Protection agencies of the United States Department of Homeland Security, the United States Coast Guard, the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, and the United States Department of Transportation, or any authorized representative of these federal agencies, for official purposes;

(3) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(4) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, seller's permit numbers and the status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(5) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is a document maintained by a court of record and is not otherwise prohibited from disclosure;

(6) Disclosing such return or tax information to the United
States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

((e)) (n) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property;

((p)) (o) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

((q)) (p) Disclosing (such return or tax information) real estate excise tax affidavit forms filed under RCW 82.45.150 in the possession of the department (relating to the administration or enforcement of the real estate excise tax imposed under chapter 82.45 RCW), including (information regarding) real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

((r)) (q) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted;

((s)) (r) Disclosing such return or tax information to the court in respect to the department's application for a subpoena under RCW 82.32.115;

(s) Disclosing to a person against whom the department has asserted liability under RCW 83.100.120 return or tax information pertaining to that person's liability for tax under chapter 83.100 RCW;

(t) Disclosing such return or tax information to the streamlined sales tax governing board, member states of the streamlined sales tax governing board, or authorized representatives of such board or states, for the limited purposes of:

(i) Conducting on behalf of member states sales and use tax audits of taxpayers; or

(ii) Auditing certified service providers or certified automated systems providers; or

(u) Disclosing any such return or tax information when the disclosure is specifically authorized under any other section of the Revised Code of Washington.
(4)(a) The department may disclose return or taxpayer information
to a person under investigation or during any court or administrative
proceeding against a person under investigation as provided in this
subsection (4). The disclosure must be in connection with the
department's official duties relating to an audit, collection activity,
or a civil or criminal investigation. The disclosure may occur only
when the person under investigation and the person in possession of
data, materials, or documents are parties to the return or tax
information to be disclosed. The department may disclose return or tax
information such as invoices, contracts, bills, statements, resale or
exemption certificates, or checks. However, the department may not
disclose general ledgers, sales or cash receipt journals, check
registers, accounts receivable/payable ledgers, general journals,
financial statements, expert's workpapers, income tax returns, state
tax returns, tax return workpapers, or other similar data, materials,
or documents.

(b) Before disclosure of any tax return or tax information under
this subsection (4), the department must, through written
correspondence, inform the person in possession of the data, materials,
or documents to be disclosed. The correspondence must clearly identify
the data, materials, or documents to be disclosed. The department may
not disclose any tax return or tax information under this subsection
(4) until the time period allowed in (c) of this subsection has expired
or until the court has ruled on any challenge brought under (c) of this
subsection.

(c) The person in possession of the data, materials, or documents
to be disclosed by the department has twenty days from the receipt of
the written request required under (b) of this subsection to petition
the superior court of the county in which the petitioner resides for
injunctive relief. The court ((shall)) must limit or deny the request
of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are
cumulative or duplicative, or are obtainable from some other source
that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought
would be unduly burdensome or expensive, taking into account the needs
of the department, the amount in controversy, limitations on the
petitioner's resources, and the importance of the issues at stake; or
(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued under RCW 82.32.115 does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena under RCW 82.32.115 may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3)(((f), (g), (h), (i), (j), or (n)) (e), (f), (g), (h), (i), or (m) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

Sec. 105. RCW 82.32.480 and 2001 c 314 s 20 are each amended to read as follows:

The forest products commission, created pursuant to chapter 15.100 RCW, constitutes a state agency for purposes of applying the exemption contained in RCW 82.32.330(3)(((f), (g), (h), (i), (j), or (n)) (e), (f), (g), (h), (i), or (m) for the disclosure of taxpayer information by the department. Disclosure of return or tax information may be made only to employees of the commission and not to commission members. Employees are authorized to use this information in accordance with RCW 15.100.100(4). Employees are subject to all civil and criminal penalties provided under RCW 82.32.330 for disclosures
made to another person not entitled under the provisions of this section or RCW 15.100.100 to knowledge of such information.

Sec. 106. RCW 82.60.100 and 1987 c 49 s 1 are each amended to read as follows:

Applications, reports, and any other information received by the department under this chapter ((shall)), _except_ applications not approved by the department, are not ((be)) confidential and ((shall be)) are subject to disclosure.

Sec. 107. RCW 82.62.080 and 1987 c 49 s 3 are each amended to read as follows:

Applications, reports, and any other information received by the department under this chapter ((shall)), _except_ applications not approved by the department, are not ((be)) confidential and ((shall be)) are subject to disclosure.

Sec. 108. RCW 82.63.070 and 2004 c 2 s 7 are each amended to read as follows:

Applications ((received)) approved by the department under this chapter are not confidential and are subject to disclosure.

Sec. 109. RCW 82.74.070 and 2005 c 513 s 10 are each amended to read as follows:

Applications ((received)) approved by the department under this chapter are not confidential and are subject to disclosure.

Sec. 110. RCW 82.75.060 and 2006 c 178 s 7 are each amended to read as follows:

Applications ((received)) approved by the department under this chapter are not confidential and are subject to disclosure.

Sec. 111. RCW 83.100.210 and 2005 c 516 s 15 are each amended to read as follows:

(1) The following provisions of chapter 82.32 RCW have full force and application with respect to the taxes imposed under this chapter unless the context clearly requires otherwise: RCW 82.32.110, 82.32.120, 82.32.130, 82.32.320, 82.32.330, and 82.32.340.
definitions in this chapter have full force and application with respect to the application of chapter 82.32 RCW to this chapter unless the context clearly requires otherwise.

(2) The department may enter into closing agreements as provided in RCW 82.32.350 and 82.32.360.

PART II
CLARIFICATIONS AND TECHNICAL CORRECTIONS

Sec. 201. RCW 39.100.050 and 2007 c 266 s 6 are each amended to read as follows:

(1) A local government that creates a benefit zone and has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465 may use annually any excess local excise taxes received by it from taxable activity within the benefit zone to finance public improvement costs associated with the public improvements financed in whole or in part by hospital benefit zone financing. The use of excess local excise taxes must cease when tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements. Any participating taxing authority is authorized to allocate excess local excise taxes to the local government as long as the local government has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465. The legislature declares that it is a proper purpose of a local government or participating taxing authority to allocate excess local excise taxes for purposes of financing public improvements under this chapter.

(2) A local government must provide the department accurate information describing the geographical boundaries of the benefit zone at least seventy-five days before the effective date of the ordinance creating the benefit zone. The local government must ensure that the boundary information provided to the department is kept current.

(3) The department must provide the necessary information to calculate excess local excise taxes to each local government that has provided boundary information to the department as provided in this section and that has received approval from the department under RCW
82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465.

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

(a) "Base year" means the calendar year immediately following the creation of a benefit zone.

(b) "Excess local excise taxes" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the benefit zone over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the benefit zone. However, if a local government creates the benefit zone and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the benefit zone within the boundaries of the area that became the benefit zone, "excess local excise taxes" means the entire amount of local excise taxes received by the local government during a calendar year period beginning with the calendar year immediately following the creation of the benefit zone and continuing with each measurement year thereafter.

(c) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the hospital benefit zone is approved by the department, except that if a local government reduces the rate of such tax after the hospital benefit zone was approved, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(d) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure the amount of excess state excise taxes and excess local excise taxes required to be used to finance public improvement costs associated with public improvements financed in whole or in part by hospital benefit zone financing.

Sec. 202. RCW 82.04.050 and 2009 c 563 s 301 and 2009 c 535 s 301 are each reenacted and amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of
tangible personal property (including articles produced, fabricated, or
imprinted) to all persons irrespective of the nature of their business
and including, among others, without limiting the scope hereof, persons
who install, repair, clean, alter, improve, construct, or decorate real
or personal property of or for consumers other than a sale to a person
((who presents a seller's permit or uniform exemption certificate in
conformity with RCW 82.04.470 and)) who:

((a)) (i) Purchases for the purpose of resale as tangible
personal property in the regular course of business without intervening
use by such person, but a purchase for the purpose of resale by a
regional transit authority under RCW 81.112.300 is not a sale for
resale; or

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

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

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

((e)) (v) Purchases for the purpose of providing the property to
consumers as part of competitive telephone service, as defined in RCW
82.04.065((. The term shall include every sale of tangible personal
property which is used or consumed or to be used or consumed in the
performance of any activity classified as a "sale at retail" or "retail
sale" even though such property is resold or utilized as provided in
(a), (b), (c), (d), or (e) of this subsection following such use. The
term also means every sale of tangible personal property to persons
engaged in any business which is taxable under RCW 82.04.280 (2) and
(7), 82.04.290, and 82.04.2908)); or

E2SHB 1597.SL  p. 16
Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280 (1), (2), and (7), 82.04.290, and 82.04.2908.

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

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

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

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;
(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but (may) does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" (shall) means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

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

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection (shall) may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services
including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

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

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

(c) Credit bureau services;

(d) Automobile parking and storage garage services;

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

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

(g) The following personal services: Physical fitness services, tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services.

(4)(a) The term also includes (i) the renting or leasing of tangible personal property to consumers (and

(ii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (4)(a)(ii), an operator must do more than maintain, inspect, or set up the tangible personal property).

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software (other than a sale) to a (person who presents a seller's permit or uniform exemption certificate in conformity with RCW 82.04.470) consumer, regardless of the method of delivery to the end consumer.
user. For purposes of this subsection (6)(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or
(ii) The customization of prewritten computer software.

(b) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;
(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;
(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and
(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

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

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

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

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

Sec. 203. RCW 82.04.060 and 2009 c 535 s 403 are each amended to read as follows:

"Sale at wholesale" or "wholesale sale" means:

(1) Any sale, which is not a sale at retail, of:
(a) Tangible personal property;
(b) Services defined as a retail sale in RCW 82.04.050(2) (a) or (g);
(c) Amusement or recreation services as defined in RCW 82.04.050(3)(a);
(d) Prewritten computer software;
(e) Services described in RCW 82.04.050(6)(b);
(f) Extended warranties as defined in RCW 82.04.050(7);
(g) Competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065; or
(h) Digital goods, digital codes, or digital automated services;
((and))
(2) Any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For the purposes of this subsection (2), "real or personal property" does not include any natural products named in RCW 82.04.100; and
(3) The sale of any service for resale, if the sale is excluded from the definition of "sale at retail" and "retail sale" in RCW 82.04.050(14).

Sec. 204. RCW 82.04.190 and 2009 c 535 s 302 are each amended to read as follows:
"Consumer" means the following:
(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:
(a) ((of)) Resale as tangible personal property in the regular course of business ((or))
(b) ((of)) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers ((or))
(c) ((of)) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in
processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale.

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

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who purchases, acquires, or uses any amusement and recreation service defined in RCW 82.04.050(3)(a), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)(b) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

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

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

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

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other
structure by such person, except that consumer does not include any
person engaged in the business of constructing, repairing, decorating,
or improving new or existing buildings or other structures under, upon,
or above real property of or for the United States, or any
instrumentality thereof, if the investment project would qualify for
sales and use tax deferral under chapter 82.63 RCW if undertaken by a
private entity;

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

(8) Any person engaged in the business of cleaning up for the
United States, or its instrumentalities, radioactive waste and other
by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of
possession of tangible personal property that, under the terms of an
extended warranty as defined in RCW 82.04.050(7), has been repaired or
is replacement property, but only with respect to the sale of or charge
made for the repairing of the tangible personal property or the
replacement property;

(10) Any person who purchases, acquires, or uses services described
in RCW 82.04.050(6)(b) other than for resale in the regular course of
business; ((and))

(11)(a) Any end user of a digital product or digital code.
(b)(i) For purposes of this subsection, "end user" means any
taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives
by contract a digital product for further commercial broadcast,
rebroadcast, transmission, retransmission, licensing, relicensing,
distribution, redistribution or exhibition of the product, in whole or
in part, to others. A person that purchases digital products or
digital codes for the purpose of giving away such products or codes
will not be considered to have engaged in the distribution or
redistribution of such products or codes and will be treated as an end
user;
(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates; and

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section.

Sec. 205. RCW 82.04.280 and 2009 c 461 s 2 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of: (((1))) (a) Printing materials other than newspapers, and of publishing periodicals or magazines; (((2))) (b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; (((3))) (c) extracting for hire or processing for hire, except persons
taxable as extractors for hire or processors for hire under another section of this chapter; (4) (d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; (5) (e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW (48.05.310); (6) (f) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the federal communications commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; (7) (g) engaging in activities which bring a person within the definition of consumer contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.

(As used in) (2) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

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

(As used in this section) (c) "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated
intervals at least once every three months, including any supplement or special edition of the publication.

Sec. 206. RCW 82.04.280 and 2009 c 461 s 3 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of: 
(a) Printing materials other than newspapers, and of publishing periodicals or magazines; 
(b) building, repairing or improving any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used, primarily for foot or vehicular traffic including mass transportation vehicles of any kind and including any readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of such building, repairing or improving, the cost of which readjustment, reconstruction, or relocation, is the responsibility of the public authority whose street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle is being built, repaired or improved; 
(c) extracting for hire or processing for hire, except persons taxable as extractors for hire or processors for hire under another section of this chapter; 
(d) operating a cold storage warehouse or storage warehouse, but not including the rental of cold storage lockers; 
(e) representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW; 
(f) radio and television broadcasting, excluding network, national and regional advertising computed as a standard deduction based on the national average thereof as annually reported by the Federal Communications Commission, or in lieu thereof by itemization by the individual broadcasting station, and excluding that portion of revenue represented by the out-of-state audience computed as a ratio to the station's total audience as measured by the 100 micro-volt signal strength and delivery by wire, if any; 
(g) engaging in activities which bring a person within the definition of consumer.
 contained in RCW 82.04.190(6); as to such persons, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.484 percent.

(As used in) (2) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, meat, seafood, dairy products, or fowl, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

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

(c) "Periodical or magazine" means a printed publication, other than a newspaper, issued regularly at stated intervals at least once every three months, including any supplement or special edition of the publication.

Sec. 207. RCW 82.04.360 and 1991 c 324 s 19 and 1991 c 275 s 2 are each reenacted and amended to read as follows:

(1) This chapter ((shall)) does not apply to any person in respect to his or her employment in the capacity of an employee or servant as distinguished from that of an independent contractor. For the purposes of this section, the definition of employee shall include those persons that are defined in section 3121(d)(3)(B) of the Internal Revenue Code of 1986, as amended through January 1, 1991.

(2) A booth renter((, as defined by RCW 18.16.020,)) is an independent contractor for purposes of this chapter. For purposes of this subsection, "booth renter" means any person who:

(a) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW; and
(b) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

Sec. 208. RCW 82.04.3651 and 1999 c 358 s 3 are each amended to read as follows:

(1) This chapter does not apply to amounts received from fund-raising activities by nonprofit organizations, as defined in subsection (2) of this section, and libraries as defined in RCW 27.12.010.

(2) As used in this section, a "nonprofit organization" means:

(a) An organization exempt from tax under section 501(c) (3), (4), or (10) of the federal internal revenue code (26 U.S.C. Sec. 501(c) (3), (4), or (10));

(b) A nonprofit organization that would qualify under (a) of this subsection except that it is not organized as a nonprofit corporation; or

(c) A nonprofit organization that meets all of the following criteria:

(i) The members, stockholders, officers, directors, or trustees of the organization do not receive any part of the organization's gross income, except as payment for services rendered;

(ii) The compensation received by any person for services rendered to the organization does not exceed an amount reasonable under the circumstances; and

(iii) The activities of the organization do not include a substantial amount of political activity, including but not limited to influencing legislation and participation in any campaign on behalf of any candidate for political office.

(3) As used in this section, the term "fund-raising activity" means soliciting or accepting contributions of money or other property or activities involving the anticipated exchange of goods or services for money between the soliciting organization and the organization or person solicited, for the purpose of furthering the goals of the nonprofit organization. "Fund-raising activity" does not include the operation of a regular place of business in which sales are made during regular hours such as a bookstore, thrift shop, restaurant, or similar business or the operation of a regular place of business from which
services are provided or performed during regular hours such as the
provision of retail, personal, or professional services. The sale of
used books, used videos, used sound recordings, or similar used
information products in a library, as defined in RCW 27.12.010, is not
the operation of a regular place of business for the purposes of this
section, if the proceeds of the sales are used to support the library.

Sec. 209. RCW 82.04.394 and 1998 c 338 s 2 are each amended to
read as follows:

(1) This chapter does not apply to amounts received by a property
management company from the owner of a property for gross wages and
benefits paid directly to or on behalf of on-site personnel from
property management trust accounts that are required to be maintained
under RCW ((18.85.310)) 18.85.285.

(2) As used in this section, "on-site personnel" means a person who
meets all of the following conditions: (a) The person works primarily
at the owner's property; (b) the person's duties include leasing
property units, maintaining the property, collecting rents, or similar
activities; and (c) under a written property management agreement: (i)
The person's compensation is the ultimate obligation of the property
owner and not the property manager; (ii) the property manager is liable
for payment only as agent of the owner; and (iii) the property manager
is the agent of the owner with respect to the on-site personnel and
that all actions, including, but not limited to, hiring, firing,
compensation, and conditions of employment, taken by the property
manager with respect to the on-site personnel are subject to the
approval of the property owner.

Sec. 210. RCW 82.08.010 and 2009 c 535 s 303 are each amended to
read as follows:

For the purposes of this chapter:

(1)(a) "Selling price" includes "sales price." "Sales price" means
the total amount of consideration, except separately stated trade-in
property of like kind, including cash, credit, property, and services,
for which tangible personal property, extended warranties, digital
goods, digital codes, digital automated services, or other services or
anything else defined as a "retail sale" under RCW 82.04.050 are sold,
leased, or rented, valued in money, whether received in money or
otherwise. No deduction from the total amount of consideration is allowed for the following: (i) The seller's cost of the property sold; (ii) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller; (iii) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges; (iv) delivery charges; and (v) installation charges.

When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" shall be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department may prescribe;

(b) "Selling price" or "sales price" does not include: Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale; interest, financing, and carrying charges from credit extended on the sale of tangible personal property, extended warranties, digital goods, digital codes, digital automated services, or other services or anything else defined as a retail sale in RCW 82.04.050, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) "Selling price" or "sales price" includes consideration received by the seller from a third party if:

(i) The seller actually receives consideration from a party other than the purchaser, and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the criteria in this subsection (1)(c)(iv) is met:

(A) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount
where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount, however a "preferred customer" card that is available to any patron does not constitute membership in such a group; or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser;

(2)(a) "Seller" means every person, including the state and its departments and institutions, making sales at retail or retail sales to a buyer, purchaser, or consumer, whether as agent, broker, or principal, except "seller" does not mean:

(i) The state and its departments and institutions when making sales to the state and its departments and institutions; or

(ii) A professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale at retail that is subject to the tax imposed by this chapter. In such cases, the client, and not the professional employer organization, is deemed to be the seller and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540;

(3) "Buyer," "purchaser," and "consumer" include, without limiting the scope hereof, every individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, municipal corporation, quasi municipal corporation, and also the state, its departments and institutions and all political subdivisions thereof, irrespective of
the nature of the activities engaged in or functions performed, and also the United States or any instrumentality thereof;

(4) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing;

(5) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address;

(6) The meaning attributed in chapter 82.04 RCW to the terms "tax year," "taxable year," "person," "company," "sale," ("sale at retail," "retail sale,")) "sale at wholesale," "wholesale," "business," "engaging in business," "cash discount," "successor," "consumer," "in this state" and "within this state" ((shall apply)) applies equally to the provisions of this chapter;

(7) For the purposes of the taxes imposed under this chapter and under chapter 82.12 RCW, "tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, and prewritten computer software;

(8) "Extended warranty" has the same meaning as in RCW 82.04.050(7);

(9) The definitions in RCW 82.04.192 apply to this chapter; ((and))

(10) For the purposes of the taxes imposed under this chapter and chapter 82.12 RCW, whenever the terms "property" or "personal property" are used, those terms must be construed to include digital goods and digital codes unless:

(a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property;
(b) It is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or

(c) To construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences; and

(11) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

Sec. 211. RCW 82.08.020 and 2009 c 469 s 802 are each amended to read as follows:

(1) There is levied and ((there shall be)) collected a tax ((on each retail sale in this state)) equal to six and five-tenths percent of the selling price on each retail sale in this state of:

(a) Tangible personal property, unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale;

(b) Digital goods, digital codes, and digital automated services, if the sale is included within the RCW 82.04.050 definition of retail sale;

(c) Services, other than digital automated services, included within the RCW 82.04.050 definition of retail sale;

(d) Extended warranties to consumers; and

(e) Anything else, the sale of which is included within the RCW 82.04.050 definition of retail sale.

(2) There is levied and ((there shall be)) collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection ((shall)) must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection ((shall)) must be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm
tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section ((shall)) must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection ((shall)) must be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter ((shall)) apply to successive retail sales of the same property.

(7) (a) Until January 1, 2011, the tax imposed in subsection (3) of this section and the dedication of revenue provided for in subsection (5) of this section((,)) do not apply with respect to the sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which utilize hybrid technology and have a United States environmental protection agency estimated highway gasoline mileage rating of at least forty miles per gallon.

(b) As used in this subsection, "hybrid technology" means propulsion units powered by both electricity and gasoline.

(8) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

Sec. 212. RCW 82.08.020 and 2006 c 1 s 3 are each amended to read as follows:

(1) There is levied and ((there shall be)) collected a tax ((on each retail sale in this state)) equal to six and five-tenths percent of the selling price on each retail sale in this state of:

(a) Tangible personal property, unless the sale is specifically excluded from the RCW 82.04.050 definition of retail sale;

(b) Digital goods, digital codes, and digital automated services, if the sale is included within the RCW 82.04.050 definition of retail sale;

(c) Services, other than digital automated services, included within the RCW 82.04.050 definition of retail sale;

(d) Extended warranties to consumers; and

(e) Anything else, the sale of which is included within the RCW 82.04.050 definition of retail sale.
(2) There is levied and collected an additional tax on each retail car rental, regardless of whether the vehicle is licensed in this state, equal to five and nine-tenths percent of the selling price. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(3) Beginning July 1, 2003, there is levied and collected an additional tax of three-tenths of one percent of the selling price on each retail sale of a motor vehicle in this state, other than retail car rentals taxed under subsection (2) of this section. The revenue collected under this subsection must be deposited in the multimodal transportation account created in RCW 47.66.070.

(4) For purposes of subsection (3) of this section, "motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(5) Beginning on December 8, 2005, 0.16 percent of the taxes collected under subsection (1) of this section must be dedicated to funding comprehensive performance audits required under RCW 43.09.470. The revenue identified in this subsection must be deposited in the performance audits of government account created in RCW 43.09.475.

(6) The taxes imposed under this chapter apply to successive retail sales of the same property.

(7) The rates provided in this section apply to taxes imposed under chapter 82.12 RCW as provided in RCW 82.12.020.

Sec. 213. RCW 82.08.0256 and 2009 c 535 s 509 are each amended to read as follows:

The tax levied by RCW 82.08.020 does not apply to sales (including transfers of title through decree of appropriation) heretofore or hereafter made of the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, to the state or a political subdivision thereof for use in conducting any public service business as defined in RCW 82.16.010 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) or...
For purposes of this section, "operating property" includes digital goods and digital codes.

Sec. 214. RCW 82.08.02573 and 1998 c 336 s 3 are each amended to read as follows:

The tax levied by RCW 82.08.020 does not apply to a sale made by a nonprofit organization or a library, if the gross income from the sale is exempt under RCW 82.04.3651.

Sec. 215. RCW 82.08.0273 and 2009 c 535 s 512 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to nonresidents of this state of tangible personal property, digital goods, and digital codes, when such property is for use outside this state, and the purchaser (a) is a bona fide resident of a state or possession or Province of Canada other than the state of Washington and such state, possession, or Province of Canada does not impose a retail sales tax or use tax of three percent or more or, if imposing such a tax, permits Washington residents exemption from otherwise taxable sales by reason of their residence, and (b) agrees, when requested, to grant the department of revenue access to such records and other forms of verification at his or her place of residence to assure that such purchases are not first used substantially in the state of Washington.

(2) Notwithstanding anything to the contrary in this chapter, if parts or other tangible personal property are installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a separate charge for the tangible personal property, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to a nonresident purchaser for the tangible personal property but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the tangible personal property or, if no publicly stated retail price is available, the seller's cost for the tangible personal property. However, the exemption provided by this section does not apply if tangible personal property is installed by the seller during the course of repairing, cleaning, altering, or improving motor vehicles, trailers, or campers and the seller makes a
single nonitemized charge for providing the tangible personal property and service. All of the requirements in subsections (1) and (3) through (6) of this section apply to this subsection.

(3)(a) Any person claiming exemption from retail sales tax under the provisions of this section must display proof of his or her current nonresident status as provided in this section.

(b) Acceptable proof of a nonresident person's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card which has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (3)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(c) In lieu of furnishing proof of a person's nonresident status under (b) of this subsection (3), a person claiming exemption from retail sales tax under the provisions of this section may provide the seller with an exemption certificate in compliance with subsection (4)(b) of this section.

(4)(a) Nothing in this section requires the vendor to make tax exempt retail sales to nonresidents. A vendor may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the vendor chooses to make a sale to a nonresident without collecting the sales tax, the vendor ((shall, in good faith,)) must examine the purchaser's proof of nonresidence, determine whether the proof is acceptable under subsection (3)(b) of this section, and maintain records for each nontaxable sale which shall show the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

(b) In lieu of using the method provided in (a) of this subsection to document an exempt sale to a nonresident, a seller may accept from the purchaser a properly completed uniform exemption certificate approved by the streamlined sales and use tax agreement governing board or any other exemption certificate as may be authorized by the department and properly completed by the purchaser. A nonresident purchaser who uses an exemption certificate authorized in this...
subsection (4)(b) must include the purchaser's driver's license number or other state-issued identification number and the state of issuance.

(c) In lieu of using the methods provided in (a) and (b) of this subsection to document an exempt sale to a nonresident, a seller may capture the relevant data elements as allowed under the streamlined sales and use tax agreement.

(5)(a) Any person making fraudulent statements, which includes the offer of fraudulent identification or fraudulently procured identification to a vendor, in order to purchase goods without paying retail sales tax is guilty of perjury under chapter 9A.72 RCW.

(b) Any person making tax exempt purchases under this section by displaying proof of identification not his or her own, or counterfeit identification, with intent to violate the provisions of this section, is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one hundred dollars or the tax due on such purchases.

(6)(a) Any vendor who makes sales without collecting the tax ((to a person who does not hold valid identification establishing out-of-state residency, and any vendor) and who fails to maintain records of sales to nonresidents as provided in this section((,))) is personally liable for the amount of tax due.

(b) Any vendor who makes sales without collecting the retail sales tax under this section and who has actual knowledge that the purchaser's proof of identification establishing out-of-state residency is fraudulent is guilty of a misdemeanor and, in addition, is liable for the tax and subject to a penalty equal to the greater of one thousand dollars or the tax due on such sales. In addition, both the purchaser and the vendor are liable for any penalties and interest assessable under chapter 82.32 RCW.

Sec. 216. RCW 82.08.0293 and 2009 c 483 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 ((shall)) does not apply to sales of food and food ingredients. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include:
(a) "Alcoholic beverages," which means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume; and

(b) "Tobacco," which means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(2) The exemption of "food and food ingredients" provided for in subsection (1) of this section (shall) does not apply to prepared food, soft drinks, or dietary supplements. For purposes of this subsection, the following definitions apply:

(a) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(A) A vitamin;

(B) A mineral;

(C) An herb or other botanical;

(D) An amino acid;

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

(b)(i) "Prepared food" means:

((A)) (A) Food sold in a heated state or heated by the seller;

((A)) (B) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food; or

((A)) (C) Two or more food ingredients mixed or combined by the seller for sale as a single item, except:

((A)) (I) Food that is only cut, repackaged, or pasteurized by the seller; or
Raw eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal food and drug administration in chapter 3, part 401.11 of The Food Code, published by the food and drug administration, as amended or renumbered as of January 1, 2003, so as to prevent foodborne illness.

"Prepared food" does not include the following food or food ingredients, if the food or food ingredients are sold without eating utensils provided by the seller:

- Food sold by a seller whose proper primary North American industry classification system (NAICS) classification is manufacturing in sector 311, except subsector 3118 (bakeries), as provided in the "North American industry classification system--United States, 2002";
- Food sold in an unheated state by weight or volume as a single item; or
- Bakery items. The term "bakery items" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes, tortes, pies, tarts, muffins, bars, cookies, or tortillas.

"Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain: Milk or milk products; soy, rice, or similar milk substitutes; or greater than fifty percent of vegetable or fruit juice by volume.

"Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

- Contains one or more of the following dietary ingredients:
  - A vitamin;
  - A mineral;
  - An herb or other botanical;
  - An amino acid;
  - A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
  - A concentrate, metabolite, constituent, extract, or combination of any ingredient described in this subsection;
- Is intended for ingestion in tablet, capsule, powder, softgel,
If not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label as required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as of January 1, 2003.

Notwithstanding anything in this section to the contrary, the exemption of "food and food ingredients" provided in this section applies to food and food ingredients that are furnished, prepared, or served as meals:

(a) Under a state administered nutrition program for the aged as provided for in the Older Americans Act (P.L. 95-478 Title III) and RCW 74.38.040(6);

(b) That are provided to senior citizens, individuals with disabilities, or low-income persons by a not-for-profit organization organized under chapter 24.03 or 24.12 RCW; or

(c) That are provided to residents, sixty-two years of age or older, of a qualified low-income senior housing facility by the lessor or operator of the facility. The sale of a meal that is billed to both spouses of a marital community or both domestic partners of a domestic partnership meets the age requirement in this subsection (3)(c) if at least one of the spouses or domestic partners is at least sixty-two years of age. For purposes of this subsection, "qualified low-income senior housing facility" means a facility:

(i) That meets the definition of a qualified low-income housing project under (Title) 26 U.S.C. Sec. 42 of the federal internal revenue code, as existing on August 1, 2009;

(ii) That has been partially funded under (Title) 42 U.S.C. Sec. 1485 of the federal internal revenue code; and

(iii) For which the lessor or operator has at any time been entitled to claim a federal income tax credit under (Title) 26 U.S.C. Sec. 42 of the federal internal revenue code.

(4)(a) Subsection (1) of this section notwithstanding, the retail sale of food and food ingredients is subject to sales tax under RCW 82.08.020 if the food and food ingredients are sold through a vending machine (and in this case). Except as provided in (b) of this
subsection, the selling price of food and food ingredients sold through
a vending machine for purposes of RCW 82.08.020 is fifty-seven percent
of the gross receipts.

(b) ((This subsection (4) does not apply to)) For soft drinks and
hot prepared food and food ingredients, other than food and food
ingredients which are heated after they have been dispensed from the
vending machine, the selling price is the total gross receipts of such
sales divided by the sum of one plus the sales tax rate expressed as a
decimal.

(c) For tax collected under this subsection (4), the requirements
that the tax be collected from the buyer and that the amount of tax be
stated as a separate item are waived.

Sec. 217. RCW 82.08.050 and 2009 c 563 s 206 and 2009 c 289 s 2
are each reenacted and amended to read as follows:

(1) The tax ((hereby)) imposed ((shall)) in this chapter must be
paid by the buyer to the seller((, and)). Each seller ((shall)) must
collect from the buyer the full amount of the tax payable in respect to
each taxable sale in accordance with the schedule of collections
adopted by the department ((pursuant to)) under the provisions of RCW
82.08.060.

(2) The tax required by this chapter, to be collected by the
seller, ((shall be)) is deemed to be held in trust by the seller until
paid to the department((, and)). Any seller who appropriates or
converts the tax collected to ((his or her)) the seller's own use or to
any use other than the payment of the tax to the extent that the money
required to be collected is not available for payment on the due date
as prescribed in this chapter is guilty of a gross misdemeanor.

(3) ((In case)) Except as otherwise provided in this section, if
any seller fails to collect the tax ((herein)) imposed in this chapter
or, having collected the tax, fails to pay it to the department in the
manner prescribed by this chapter, whether such failure is the result
of ((his or her)) the seller's own acts or the result of acts or
conditions beyond ((his or her)) the seller's control, ((he or she
shall)) the seller is, nevertheless, ((be)) personally liable to the
state for the amount of the tax((, unless the seller has taken from the
buyer a seller's permit or uniform exemption certificate authorized
under RCW 82.04.470, a copy of a direct pay permit issued under RCW
82.32.087, a direct mail form as provided in RCW 82.32.730(5), an exemption certificate claiming direct mail as provided in RCW 82.32.730(6), or other information required under the streamlined sales and use tax agreement, or information required under rules adopted by the department).

(4) Sellers are not relieved from personal liability for the amount of the tax unless they maintain proper records of exempt or nontaxable transactions and provide them to the department when requested.

(5) Sellers are not relieved from personal liability for the amount of tax if they fraudulently fail to collect the tax or if they solicit purchasers to participate in an unlawful claim of exemption.

(6) Sellers are not relieved from personal liability for the amount of tax if they accept an exemption certificate from a purchaser claiming an entity-based exemption if:

(a) The subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller in Washington; and

(b) Washington provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in Washington. Graying out exemption reason types on a uniform form and posting it on the department's web site is a clear and affirmative indication that the grayed out exemptions are not available.

(7)(a) Sellers are relieved from personal liability for the amount of tax if they obtain a fully completed exemption certificate or capture the relevant data elements required under the streamlined sales and use tax agreement within ninety days, or a longer period as may be provided by rule by the department, subsequent to the date of sale.

(b) If the seller has not obtained an exemption certificate or all relevant data elements required under the streamlined sales and use tax agreement within the period allowed subsequent to the date of sale, the seller may, within one hundred twenty days, or a longer period as may be provided by rule by the department, subsequent to a request for substantiation by the department, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith.

(c) Sellers are relieved from personal liability for the amount of tax if they obtain a blanket exemption certificate for a purchaser with
which the seller has a recurring business relationship. The department may not request from a seller renewal of blanket exemption certificates or updates of exemption certificate information or data elements if there is a recurring business relationship between the buyer and seller. For purposes of this subsection (7)(c), a "recurring business relationship" means at least one sale transaction within a period of twelve consecutive months.

(d) Sellers are relieved from personal liability for the amount of tax if they obtain a copy of a direct pay permit issued under RCW 82.32.087.

(8) The amount of tax, until paid by the buyer to the seller or to the department, (shall) constitutes a debt from the buyer to the seller (and). Any seller who fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter is guilty of a misdemeanor.

(9) Except as otherwise provided in this subsection, the tax required by this chapter to be collected by the seller (shall) must be stated separately from the selling price in any sales invoice or other instrument of sale. On all retail sales through vending machines, the tax need not be stated separately from the selling price or collected separately from the buyer. Except as otherwise provided in this subsection, for purposes of determining the tax due from the buyer to the seller and from the seller to the department it (shall) must be conclusively presumed that the selling price quoted in any price list, sales document, contract or other agreement between the parties does not include the tax imposed by this chapter((r)). But if the seller advertises the price as including the tax or that the seller is paying the tax, the advertised price (shall) may not be considered the selling price.

(10) Where a buyer has failed to pay to the seller the tax imposed by this chapter and the seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the buyer for collection of the tax((r in which case)). If the department proceeds directly against the buyer for collection of the tax as authorized in this subsection, the department may add a penalty of ten percent ((may be added)) of the unpaid tax to the amount of the
tax due for failure of the buyer to pay the (same) tax to the seller, regardless of when the tax may be collected by the department (and). In addition to the penalty authorized in this subsection, all of the provisions of chapter 82.32 RCW, including those relative to interest and penalties, (shall) apply (in addition; and). For the sole purpose of applying the various provisions of chapter 82.32 RCW, the twenty-fifth day of the month following the tax period in which the purchase was made (shall) will be considered as the due date of the tax.

(11) Notwithstanding subsections (1) through (10) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if:

(a) The person's activities in this state, whether conducted directly or through another person, are limited to:
   (i) The storage, dissemination, or display of advertising;
   (ii) The taking of orders; or
   (iii) The processing of payments; and
(b) The activities are conducted electronically via a web site on a server or other computer equipment located in Washington that is not owned or operated by the person making sales into this state nor owned or operated by an affiliated person. "Affiliated persons" has the same meaning as provided in RCW 82.04.424.

(12) Subsection (11) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(13) For purposes of this section (1):

(a) "Exemption certificate" means documentation furnished by a buyer to a seller to claim an exemption from sales tax. An exemption certificate includes a reseller permit or other documentation authorized in RCW 82.04.470 furnished by a buyer to a seller to substantiate a wholesale sale; and

(b) "Seller" includes a certified service provider, as defined in RCW 82.32.020, acting as agent for the seller.
Sec. 218. RCW 82.08.865 and 2007 c 443 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of diesel fuel, biodiesel fuel, or aircraft fuel, to a farm fuel user for agricultural purposes. This exemption applies to a fuel blend if all of the component fuels of the blend would otherwise be exempt under this subsection if the component fuels were sold as separate products. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. (Fuel used for space or water heating for human habitation is not exempt under this section.)

(2) The definitions in RCW 82.04.213 and this subsection apply to this section.

(a)(i) "Agricultural purposes" means the performance of activities directly related to the growing, raising, or producing of agricultural products.

(ii) "Agricultural purposes" does not include: (A) Heating space for human habitation or water for human consumption; or (B) transporting on public roads individuals, agricultural products, farm machinery or equipment, or other tangible personal property, except when the transportation is incidental to transportation on private property and the fuel used for such transportation is not subject to tax under chapter 82.38 RCW.

(b) "Aircraft fuel" is defined as provided in RCW 82.42.010.

(c) "Biodiesel fuel" is defined as provided in RCW 19.112.010.

(d) "Diesel fuel" is defined as provided in 26 U.S.C. 4083, as amended or renumbered as of January 1, 2006.

(e) "Farm fuel user" means: (i) A farmer; or (ii) a person who provides horticultural services for farmers, such as soil preparation services, crop cultivation services, and crop harvesting services.

Sec. 219. RCW 82.08.700 and 2007 c 22 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to nonresident individuals of vessels thirty feet or longer if an
individual purchasing a vessel purchases and displays a valid use permit.

(2) (a) An individual claiming exemption from retail sales tax under this section must display proof of his or her current nonresident status at the time of purchase.

(b) Acceptable proof of a nonresident individual's status includes one piece of identification such as a valid driver's license from the jurisdiction in which the out-of-state residency is claimed or a valid identification card that has a photograph of the holder and is issued by the out-of-state jurisdiction. Identification under this subsection (2)(b) must show the holder's residential address and have as one of its legal purposes the establishment of residency in that out-of-state jurisdiction.

(3) Nothing in this section requires the vessel dealer to make tax exempt retail sales to nonresidents. A dealer may choose to make sales to nonresidents, collect the sales tax, and remit the amount of sales tax collected to the state as otherwise provided by law. If the dealer chooses to make a sale to a nonresident without collecting the sales tax, the vendor ((shall, in good faith,)) must examine the proof of nonresidence, determine whether the proof is acceptable under subsection (2)(b) of this section, and maintain records for each nontaxable sale that shows the type of proof accepted, including any identification numbers where appropriate, and the expiration date, if any.

(4) A vessel dealer shall issue a use permit to a buyer if the dealer is satisfied that the buyer is a nonresident. The use permit ((shall)) must be in a form and manner required by the department and ((shall)) must include an affidavit, signed by the purchaser, declaring that the vessel will be used in a manner consistent with this section. The fee for the issuance of a use permit is five hundred dollars for vessels fifty feet in length or less and eight hundred dollars for vessels greater than fifty feet in length. Funds collected under this section and RCW 82.12.700 ((shall)) must be reported on the dealer's excise tax return and remitted to the department in accordance with RCW 82.32.045. The department ((shall)) must transmit the fees to the state treasurer to be deposited in the state general fund. The use permit must be displayed on the vessel and is valid for twelve consecutive months from the date of issuance. A use permit is not
renewable. A purchaser at the time of purchase must make an
irrevocable election to take the exemption authorized in this section
or the exemption in either RCW 82.08.0266 or 82.08.02665. A vessel
dealer must maintain a copy of the use permit for the dealer's records.
Vessel dealers must provide copies of use permits issued by the dealer
under this section and RCW 82.12.700 to the department on a quarterly
basis.

(5) A nonresident who claims an exemption under this section and
who uses a vessel in this state after his or her use permit for that
vessel has expired is liable for the tax imposed under RCW 82.08.020 on
the original selling price of the vessel and ((shall)) must pay the tax
directly to the department. Interest at the rate provided in RCW
82.32.050 applies to amounts due under this subsection, retroactively
to the date the vessel was purchased, and accrues until the full amount
of tax due is paid to the department.

(6) Any vessel dealer who makes sales without collecting the tax to
a person who does not hold valid identification establishing
out-of-state residency, and any dealer who fails to maintain records of
sales to nonresidents as provided in this section, is personally liable
for the amount of tax due.

(7) Chapter 82.32 RCW applies to the administration of the fee
imposed in this section and RCW 82.12.700.

(8) A vessel dealer that issues use permits under this section and
RCW 82.12.700 must file with the department all returns in an
electronic format as provided or approved by the department. As used
in this subsection, "returns" has the same meaning as "return" in RCW
82.32.050.

(a) Any return required to be filed in an electronic format under
this subsection is not filed until received by the department in an
electronic format provided or approved by the department.

(b) The electronic filing requirement in this subsection ends when
a vessel dealer no longer issues use permits, and the dealer has
electronically filed all of its returns reporting the fees collected
under this section and RCW 82.12.700.

(c) The department may waive the electronic filing requirement in
this subsection for good cause shown.
Sec. 220. RCW 82.12.0257 and 2009 c 535 s 611 are each amended to read as follows:

The provisions of this chapter do not apply in respect to the use of any article of personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or of a complete operating integral section thereof, by the state or a political subdivision thereof in conducting any public service business as defined in RCW 82.16.010 ((1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11))). For the purposes of this section, "operating property" includes digital goods and digital codes.

Sec. 221. RCW 82.12.040 and 2009 c 535 s 1108 are each amended to read as follows:

(1) Every person who maintains in this state a place of business or a stock of goods, or engages in business activities within this state, shall obtain from the department a certificate of registration, and shall, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g), (3)(a), or (6)(b), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. For the purposes of this chapter, the phrase "maintains in this state a place of business" shall include the solicitation of sales and/or taking of orders by sales agents or traveling representatives. For the purposes of this chapter, "engages in business activity within this state" includes every activity which is sufficient under the Constitution of the United States for this state to require collection of tax under this chapter. The department must in rules specify activities which constitute engaging in business activity within this state, and must keep the rules current with future court interpretations of the Constitution of the United States.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by
reason of sales of tangible personal property, digital goods, digital
codes, digital automated services, extended warranties, or sales of any
service defined as a retail sale in RCW 82.04.050 (2) (a) or (g),
(3)(a), or (6)(b), of his or her principals for use in this state,
must, at the time such sales are made, collect from the purchasers the
tax imposed on the purchase price under this chapter, and for that
purpose ((shall be)) is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to
be held in trust by the retailer until paid to the department, and any
retailer who appropriates or converts the tax collected to the
retailer's own use or to any use other than the payment of the tax
provided herein to the extent that the money required to be collected
is not available for payment on the due date as prescribed is guilty of
a misdemeanor. In case any seller fails to collect the tax herein
imposed or having collected the tax, fails to pay the same to the
department in the manner prescribed, whether such failure is the result
of the seller's own acts or the result of acts or conditions beyond the
seller's control, the seller is nevertheless personally liable to the
state for the amount of such tax, unless the seller has taken from the
buyer ((in good faith)) a copy of a direct pay permit issued under RCW
82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or
transferee, either directly or indirectly, and by whatever means, all
or any part of the tax levied by this chapter is guilty of a
misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section,
any person making sales is not obligated to collect the tax imposed by
this chapter if:

(a) The person's activities in this state, whether conducted
directly or through another person, are limited to:
   (i) The storage, dissemination, or display of advertising;
   (ii) The taking of orders; or
   (iii) The processing of payments; and
(b) The activities are conducted electronically via a web site on
a server or other computer equipment located in Washington that is not
owned or operated by the person making sales into this state nor owned
or operated by an affiliated person. "Affiliated persons" has the same
meaning as provided in RCW 82.04.424.
(6) Subsection (5) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(7) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (7) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

Sec. 222. RCW 82.12.865 and 2007 c 443 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the ((nonhighway)) use of diesel fuel, biodiesel fuel, or aircraft fuel, by a farm fuel user for agricultural purposes. This exemption applies to a fuel blend if all of the component fuels of the blend would otherwise be exempt under this subsection if the component fuels were acquired as separate products. ((Fuel used for space or water heating for human habitation is not exempt under this section.))

(2) The definitions in RCW 82.08.865 apply to this section.

Sec. 223. RCW 82.14.020 and 2007 c 6 s 502 are each amended to read as follows:

For purposes of this chapter:

(1) "City" means a city or town;

(2) The meaning ascribed to words and phrases in chapters 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as applicable, ((shall have)) has full force and effect with respect to taxes imposed under authority of this chapter. However, the terms "retail sale" and "sale at retail" have only the meaning provided in RCW 82.08.010 for the purposes of this chapter, unless the context clearly requires that a different definition apply;
(3) "Taxable event" \((\text{shall})\) means any retail sale, or any use, upon which a state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or may hereafter be amended\((\text{PROVIDED, HOWEVER, That})\). However, the term \((\text{shall})\) does not include a retail sale taxable pursuant to RCW 82.08.150, as now or hereafter amended; and

(4) "Treasurer or other legal depository" \((\text{shall})\) means the treasurer or legal depository of a county or city.

Sec. 224. RCW 82.16.010 and 2009 c 535 s 1110 and 2009 c 469 s 701 are each reenacted and amended to read as follows:

For the purposes of this chapter, unless otherwise required by the context:

(1) "Express business" means the business of carrying property for public hire on the line of any common carrier operated in this state, when such common carrier is not owned or leased by the person engaging in such business.

(2) "Gas distribution business" means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural.

(3) "Gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

(4) "Light and power business" means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale and/or for the wheeling of electricity for others.

(5) "Log transportation business" means the business of transporting logs by truck, \((\text{other than})\) except when \(\text{such transportation meets the definition of urban transportation business or occurs exclusively upon private roads.}\)

(6) "Motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and
includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier, or contract carrier as defined by RCW 81.68.010 and 81.80.010. However, "motor transportation business" does not mean or include: (a) A log transportation business; or (b) the transportation of logs or other forest products exclusively upon private roads or private highways.

(7)(a) "Public service business" means any of the businesses defined in subsections (1), (2), (4), (6), (8), (9), (10), (12), and (13) of this section or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business hereafter declared by the legislature to be of a public service nature, except telephone business and low-level radioactive waste site operating companies as redefined in RCW 81.04.010. It includes, among others, without limiting the scope hereof: Airplane transportation, boom, dock, ferry, pipe line, toll bridge, toll logging road, water transportation and wharf businesses.

(b) The definitions in this subsection (7)(b) apply throughout this subsection (7).

(i) "Competitive telephone service" has the same meaning as in RCW 82.04.065.

(ii) "Network telephone service" means the providing by any person of access to a telephone network, telephone network switching service, toll service, or coin telephone services, or the providing of telephonic, video, data, or similar communication or transmission for hire, via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" includes the provision of transmission to and from the site of an internet provider via a telephone network, toll line or channel, cable, microwave, or similar communication or transmission system. "Network telephone service" does not include the providing of competitive telephone service, the providing of cable television service, the providing of broadcast services by radio or television stations, nor the provision of internet access as defined in RCW 82.04.297, including the reception of dial-in connection, provided at the site of the internet service provider.

(iii) "Telephone business" means the business of providing network
telephone service. It includes cooperative or farmer line telephone
companies or associations operating an exchange.

(iv) "Telephone service" means competitive telephone service or
network telephone service, or both, as defined in (b)(i) and (ii) of
this subsection.

(8) "Railroad business" means the business of operating any
railroad, by whatever power operated, for public use in the conveyance
of persons or property for hire. It shall not, however, include any
business herein defined as an urban transportation business.

(9) "Railroad car business" means the business of operating stock
cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
other kinds of cars used for transportation of property or persons upon
the line of any railroad operated in this state when such railroad is
not owned or leased by the person engaging in such business.

(10) "Telegraph business" means the business of affording
telegraphic communication for hire.

(11) "Tugboat business" means the business of operating tugboats,
towboats, wharf boats or similar vessels in the towing or pushing of
vessels, barges or rafts for hire.

(12) "Urban transportation business" means the business of
operating any vehicle for public use in the conveyance of persons or
property for hire, insofar as (a) operating entirely within the
corporate limits of any city or town, or within five miles of the
corporate limits thereof, or (b) operating entirely within and between
cities and towns whose corporate limits are not more than five miles
apart or within five miles of the corporate limits of either thereof.
Included herein, but without limiting the scope hereof, is the business
of operating passenger vehicles of every type and also the business of
operating cartage, pickup, or delivery services, including in such
services the collection and distribution of property arriving from or
destined to a point within or without the state, whether or not such
collection or distribution be made by the person performing a local or
interstate line-haul of such property.

(13) "Water distribution business" means the business of operating
a plant or system for the distribution of water for hire or sale.

(14) The meaning attributed, in chapter 82.04 RCW, to the term "tax
year," "person," "value proceeding or accruing," "business," "engaging
in business," "in this state," "within this state," "cash discount" and
"successor" ((shall apply)) applies equally in the provisions of this
chapter.

Sec. 225. RCW 82.16.110 and 2009 c 469 s 504 are each amended to
read as follows:

The definitions in this section apply throughout this chapter
unless the context clearly requires otherwise.

(1)(a) "Community solar project" means:

(i) A solar energy system owned by local individuals, households,
nonprofit organizations, or nonutility businesses that is placed on the
property owned by a cooperating local governmental entity that is not
in the light and power business or in the gas distribution business; or

(ii) A utility-owned solar energy system that is voluntarily funded
by the utility's ratepayers where, in exchange for their financial
support, the utility gives contributors a payment or credit on their
utility bill for the value of the electricity produced by the project.

(b) For the purposes of "community solar project" as defined in (a)
of this subsection:

(i) "Nonprofit organization" means an organization exempt from
taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal
revenue code of 1986, as amended, as of January 1, 2009; and

(ii) "Utility" means a light and power business, an electric
cooperative, or a mutual corporation that provides electricity service.

(2) "Customer-generated electricity" means a community solar
project or the alternating current electricity that is generated from
a renewable energy system located on an individual's, businesses', or
local government's real property that is also provided electricity
generated by a light and power business. Except for community solar
projects, a system located on a leasehold interest does not qualify
under this definition. Except for utility-owned community solar
projects, "customer-generated electricity" does not include electricity
generated by a light and power business with greater than one thousand
megawatt hours of annual sales or a gas distribution business.

(3) "Economic development kilowatt-hour" means the actual kilowatt-
hour measurement of customer-generated electricity multiplied by the
appropriate economic development factor.
(4) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

(5) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

(6) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

(7) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

(8) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

(9) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

Sec. 226. RCW 82.32.080 and 2009 c 176 s 2 are each amended to read as follows:

(1) When authorized by the department, payment of the tax may be made by uncertified check under such rules as the department prescribes, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, will remain liable for payment of the tax and for all legal penalties, the same as if such check had not been tendered.

(2)(a) Except as otherwise provided in this subsection, payment of the tax must be made by electronic funds transfer, as defined in RCW 82.32.085, if the taxpayer is required to file and remit its taxes on a monthly basis. As an alternative to electronic funds transfer, the department may authorize other forms of electronic payment, such as credit card and e-check. All taxes administered by this chapter are subject to this requirement except the taxes authorized by chapters 82.14A, 82.14B, 82.24, (82.27)) 82.29A, and 84.33 RCW. It is the intent of this subsection to require electronic payment for those taxes reported on the department's combined excise tax return or any successor return. The mandatory electronic payment requirement in this subsection also applies to taxpayers who meet the threshold for filing
and remitting taxes on a monthly basis as established by rule of the department but for whom the department has authorized a less frequent reporting frequency, when such authorization became effective on or after July 26, 2009.

(b) The department, for good cause, may waive the electronic payment requirement in this subsection for any taxpayer. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to accept payment of taxes by electronic funds transfer or other acceptable forms of electronic payment from taxpayers that are not subject to the mandatory electronic payment requirements in this subsection.

(3)(a) Except as otherwise provided in this subsection, returns must be filed electronically using the department's online tax filing service, if the taxpayer is required to file and remit its taxes on a monthly basis. The mandatory electronic filing requirement in this subsection also applies to taxpayers who meet the threshold for filing and remitting taxes on a monthly basis as established by rule of the department but for whom the department has authorized a less frequent reporting frequency, when such authorization became effective on or after July 26, 2009.

(b) The department, for good cause, may waive the electronic filing requirement in this subsection for any taxpayer. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to allow electronic filing of returns from taxpayers that are not subject to the mandatory electronic filing requirements in this subsection.

(4)(a)(i) The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days must be conditional on deposit with the department of an amount to be determined by the department which
shall be approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit must be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

(ii) The department must review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

(b) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for making or filing any return as the department deems proper. The department may not require any deposit as a condition for granting an extension under this subsection (4)(b).

(5) The department must keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105 and 82.32.350, the department must apply the payment of the taxpayer first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

(6) The department may refuse to accept any return that is not accompanied by a remittance of the tax shown to be due thereon or that is not filed electronically as required in this section. When such return is not accepted, the taxpayer is deemed to have failed or refused to file a return and is subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return may not apply when a return is timely filed electronically and a timely payment has been made by electronic funds transfer or other form of electronic payment as authorized by the department.

(7) Except for returns and remittances required to be transmitted to the department electronically under this section and except as otherwise provided in this chapter, a return or remittance that is transmitted to the department by United States mail is deemed filed or
received on the date shown by the post office cancellation mark stamped upon the envelope containing it. A return or remittance that is transmitted to the department electronically is deemed filed or received according to procedures set forth by the department.

(8)(a) For purposes of subsections (2) and (3) of this section, "good cause" means the inability of a taxpayer to comply with the requirements of subsection (2) or (3) of this section because:

(i) The taxpayer does not have the equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section;

(ii) The equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section is not functioning properly;

(iii) The taxpayer does not have access to the internet using the taxpayer's own equipment;

(iv) The taxpayer does not have a bank account or a credit card;

(v) The taxpayer's bank is unable to send or receive electronic funds transfer transactions; or

(vi) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from complying with the requirements of subsection (2) or (3) of this section.

(b) "Good cause" also includes any circumstance that, in the department's judgment, supports the efficient or effective administration of the tax laws of this state, including providing relief from the requirements of subsection (2) or (3) of this section to any taxpayer that is voluntarily collecting and remitting this state's sales or use taxes on sales to Washington customers but has no legal requirement to be registered with the department.

Sec. 227. RCW 82.32.440 and 2001 c 116 s 2 are each amended to read as follows:

(1) The department is authorized to enter into agreements with sellers who meet the criteria in this section for a project on sales and use tax exemption requirements. This project will allow the use of electronic data collection in lieu of paper certificates otherwise required by law, including the use of electronic signatures.

(2) The object of the project is to determine whether using an
(3) A business making both sales taxable and exempt under chapter 82.08 or 82.12 RCW, that has electronic data-collecting capabilities, and that wishes to participate in the project may make application to the department in such form and manner as the department may require. To be eligible for such participation, a seller must demonstrate its capability to take part in the project and to provide data to the department in a form in which the data can be used by the department. The department is not required to accept all applicants in this project and is not required to provide any reason for not selecting a participant. A seller selected as a participant may be relieved of other sales and use tax exemption documentation requirements provided by law as covered by the project (and will be relieved of the good faith requirement under RCW 82.08.050 to the extent that it has made available to the department the data required by the project).

Sec. 228.  RCW 82.32.520 and 2007 c 54 s 18 and 2007 c 6 s 1001 are each reenacted and amended to read as follows:

(1) Except for the defined telecommunications services listed in subsection (3) of this section, the sale of telecommunications service as defined in RCW 82.04.065 sold on a call-by-call basis is sourced to (a) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction or (b) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(2) Except for the defined telecommunications services listed in subsection (3) of this section, a sale of telecommunications service as defined in RCW 82.04.065 sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

(3) The sales of telecommunications service as defined in RCW 82.04.065 that are listed in subsection (3) of this section is sourced to each level of taxing jurisdiction as follows:

(a) A sale of mobile telecommunications services, other than air-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by RCW 82.08.066.
(b) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either (i) the seller's telecommunications system, or (ii) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced as follows:

(i) When a prepaid calling service or a prepaid wireless calling service is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

(ii) When a prepaid calling service or a prepaid wireless calling service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller;

(iii) When (c)(i) and (ii) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

(iv) When (c)(i), (ii), and (iii) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith;

(v) When (c)(i), (ii), (iii), and (iv) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service defined as a retail sale under RCW 82.04.050 was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold; sale is sourced as provided in RCW 82.32.730(1)(e);

(vi) In the case of a sale of prepaid wireless calling service,
(c)(v) of this subsection (shall) includes as an option the location associated with the mobile telephone number.

(d) A sale of a private communication service is sourced as follows:

(i) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(ii) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(iii) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(iv) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

(4) The definitions in this subsection apply throughout this chapter.

(a) "Air-ground radiotelephone service" means air-ground radio service, as defined in 47 C.F.R. Sec. 22.99, as amended or renumbered as of January 1, 2003, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(b) "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(c) "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(d) "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user
of the telecommunications service is the customer of the
telecommunications service. "Customer" does not include a reseller of
telecommunications service or for mobile telecommunications service of
a serving carrier under an agreement to serve the customer outside the
home service provider's licensed service area.

(e) "Customer channel termination point" means the location where
the customer either inputs or receives the communications.

(f) "End user" means the person who uses the telecommunications
service. In the case of an entity, the term end user means the
individual who uses the service on behalf of the entity.

(g) "Home service provider" means the same as that term is defined
in RCW 82.04.065.

(h) "Mobile telecommunications service" means the same as that term
is defined in RCW 82.04.065.

(i) "Place of primary use" means the street address representative
of where the customer's use of the telecommunications service primarily
occurs, which must be the residential street address or the primary
business street address of the customer. In the case of mobile
telecommunications services, "place of primary use" must be within the
licensed service area of the home service provider.

(j) "Postpaid calling service" means the telecommunications service
obtained by making a payment on a call-by-call basis either through the
use of a credit card or payment mechanism such as a bank card, travel
card, credit card, or debit card, or by charge made to a telephone
number that is not associated with the origination or termination of
the telecommunications service. A postpaid calling service includes a
telecommunications service, except a prepaid wireless calling service,
that would be a prepaid calling service except it is not exclusively a
telecommunications service.

(k) "Prepaid calling service" means the right to access exclusively
telecommunications services, which must be paid for in advance and
which enables the origination of calls using an access number and/or
authorization code, whether manually or electronically dialed, and that
is sold in predetermined units or dollars of which the number declines
with use in a known amount.

(l) "Prepaid wireless calling service" means a telecommunications
service that provides the right to use mobile wireless service as well
as other nontelecommunications services, including the download of
digital products delivered electronically, content, and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(m) "Private communication service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(n) "Service address" means:

(i) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(ii) If the location in (n)(i) of this subsection is not known, the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

(iii) If the locations in (n)(i) and (ii) of this subsection are not known, the location of the customer's place of primary use.

Sec. 229. RCW 82.32.730 and 2009 c 535 s 704 and 2009 c 289 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in subsections (5) through (8) of this section, for purposes of collecting or paying sales or use taxes to the appropriate jurisdictions, all sales at retail shall be sourced in accordance with this subsection and subsections (2) through (4) of this section.

(a) When tangible personal property, an extended warranty, a digital good, digital code, digital automated service, or other service defined as a retail sale under RCW 82.04.050 is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(b) When the tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service defined as a retail sale under RCW 82.04.050 is not received by the purchaser
at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller.

(c) When (a) and (b) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(d) When (a), (b), and (c) of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(e) When (a), (b), (c), or (d) of this subsection do not apply, including the circumstance where the seller is without sufficient information to apply those provisions, then the location shall be determined by the address from which tangible personal property was shipped, from which the digital good or digital code or the computer software delivered electronically was first available for transmission by the seller, or from which the extended warranty or digital automated service or other service defined as a retail sale under RCW 82.04.050 was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold.

(2) The lease or rental of tangible personal property, other than property identified in subsection (3) or (4) of this section, shall be sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with subsection (1) of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location is
not altered by intermittent use at different locations, such as use of
business property that accompanies employees on business trips and
service calls.

(b) For a lease or rental that does not require recurring periodic
payments, the payment is sourced the same as a retail sale in
accordance with subsection (1) of this section.

(c) This subsection (2) does not affect the imposition or
computation of sales or use tax on leases or rentals based on a lump
sum or accelerated basis, or on the acquisition of property for lease.

(3) The lease or rental of motor vehicles, trailers, semitrailers,
or aircraft that do not qualify as transportation equipment shall be
sourced as provided in this subsection.

(a) For a lease or rental that requires recurring periodic
payments, each periodic payment is sourced to the primary property
location. The primary property location is as indicated by an address
for the property provided by the lessee that is available to the lessor
from its records maintained in the ordinary course of business, when
use of this address does not constitute bad faith. This location is
not altered by intermittent use at different locations.

(b) For a lease or rental that does not require recurring periodic
payments, the payment is sourced the same as a retail sale in
accordance with subsection (1) of this section.

(c) This subsection does not affect the imposition or computation
of sales or use tax on leases or rentals based on a lump sum or
accelerated basis, or on the acquisition of property for lease.

(4) The retail sale, including lease or rental, of transportation
equipment shall be sourced the same as a retail sale in accordance with
subsection (1) of this section.

(5) This subsection applies to direct mail transactions not
governed by subsection (6) of this section. 

(A purchaser of direct
mail that is not a holder of a direct pay permit shall provide to the
seller in conjunction with the purchase either a direct mail form or
information that shows the jurisdictions to which the direct mail is
delivered to recipients.

(i) Upon receipt of the direct mail form, the seller is relieved of
all obligations to collect, pay, or remit the applicable tax and the
purchaser is obligated to pay or remit the applicable tax on a direct
pay basis. A direct mail form shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(ii) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information as required by (a) of this subsection, the seller shall collect the tax according to the delivery information provided by the purchaser. This subsection does not limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser is not required to provide a direct mail form or delivery information to the seller.}

(a) This subsection (5)(a) applies to sales of advertising and promotional direct mail.

(i) A purchaser of advertising and promotional direct mail may provide the seller with either:

(A) A direct pay permit;

(B) A streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department); or

(C) Information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients.

(ii) If the purchaser provides the permit, certificate, or statement referred to in (a)(i)(A) or (B) of this subsection (5), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving advertising and promotional direct mail to which the permit, certificate, or statement applies. The purchaser must source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered to the recipients and must report and pay any applicable tax due.
(iii) If the purchaser provides the seller information showing the jurisdictions to which the advertising and promotional direct mail is to be delivered to recipients, the seller must source the sale to the jurisdictions to which the advertising and promotional direct mail is to be delivered and must collect and remit the applicable tax. In the absence of bad faith, the seller is relieved of any further obligation to collect any additional tax on the sale of advertising and promotional direct mail where the seller has sourced the sale according to the delivery information provided by the purchaser.

(iv) If the purchaser does not provide the seller with any of the items listed in (a)(i)(A), (B), or (C) of this subsection (5), the sale must be sourced according to subsection (1)(e) of this section.

(b) This subsection (5)(b) applies to sales of other direct mail.

(i) Except as otherwise provided in this subsection (5)(b), sales of other direct mail are sourced in accordance with subsection (1)(c) of this section.

(ii) A purchaser of other direct mail may provide the seller with either:

(A) A direct pay permit; or

(B) A streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized, or accepted by the department).

(iii) If the purchaser provides the permit, certificate, or statement referred to in (b)(ii)(A) or (B) of this subsection (5), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit any tax on any transaction involving other direct mail to which the permit, certificate, or statement applies. Notwithstanding (b)(i) of this subsection (5), the sale must be sourced to the jurisdictions to which the other direct mail is to be delivered to the recipients, and the purchaser must report and pay any applicable tax due.

(6)(a) This subsection applies only with respect to transactions in which direct mail is delivered or distributed from a location within this state to a location within this state.

(b) If the purchaser of direct mail provides the seller with a direct pay permit or ((an exemption certificate claiming direct mail)) a streamlined sales and use tax agreement certificate of exemption claiming direct mail (or other written statement approved, authorized,
or accepted by the department), the seller, in the absence of bad faith, is relieved of all obligations to collect, pay, or remit the applicable tax (and) on any transaction involving direct mail to which the permit, certificate, or statement applies. The purchaser (is obligated to pay or remit the) must report and pay any applicable tax (on a direct pay basis. An exemption certificate) due. A streamlined sales and use tax agreement certificate of exemption claiming direct mail will remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

((b)) (c)(i) Except as provided in (b)((ii)), (c)(ii), and (c)(iii) of this subsection (6), ((if the purchaser of direct mail does not provide the seller with a direct pay permit or an exemption certificate claiming direct mail,)) the seller must collect the tax according to subsection (1)(e) of this section.

(ii) To the extent the seller knows that a portion of the sale of direct mail will be delivered or distributed to locations in another state, the seller must collect the tax on that portion according to subsection (5) of this section.

(iii) Notwithstanding (c)(i) and (ii) of this subsection (6), a seller may elect to use the provisions of subsection (5) of this section to source all sales of advertising and promotional direct mail.

(7) The following are sourced to the location at or from which delivery is made to the consumer:

(a) A retail sale of watercraft;

(b) A retail sale of a modular home, manufactured home, or mobile home;

(c) A retail sale, excluding the lease and rental, of a motor vehicle, trailer, semitrailer, or aircraft, that do not qualify as transportation equipment; and

(d) Florist sales. In the case of a sale in which one florist takes an order from a customer and then communicates that order to another florist who delivers the items purchased to the place designated by the customer, the location at or from which the delivery is made to the consumer is deemed to be the location of the florist originally taking the order.

(8)(a) A retail sale of the providing of telecommunications
services, as that term is defined in RCW 82.04.065, is sourced in accordance with RCW 82.32.520.

(b) A retail sale of the providing of ancillary services, as that term is defined in RCW 82.04.065, is sourced to the customer's place of primary use of the telecommunications services in respect to which the ancillary services are associated with or incidental to. The definitions of "customer" and "place of primary use" in RCW 82.32.520 apply to this subsection (8)(b).

(9) The definitions in this subsection apply throughout this section.

(a) "Advertising and promotional direct mail" means printed material that meets the definition of direct mail, the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this subsection (9)(a), the word "product" means tangible personal property, a product transferred electronically, or a service.

(b) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

((c)) (c) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

((d)) (d)(i) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing. The term includes, but is not limited to:

(A) Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, and payroll advices;

(B) Any legally required mailings including, but not limited to, privacy notices, tax reports, and stockholder reports; and
(C) Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

(ii) Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental.

(e) "Florist sales" means the retail sale of tangible personal property by a florist. For purposes of this subsection (9)((c)) (e), "florist" means a person whose primary business activity is the retail sale of fresh cut flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products, used for decorative and not landscaping purposes.

(f) "Receive" and "receipt" mean taking possession of tangible personal property, making first use of digital automated services or other services, or taking possession or making first use of digital goods or digital codes, whichever comes first. "Receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(g) "Transportation equipment" means:

(i) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce;

(ii) Trucks and truck tractors with a gross vehicle weight rating of ten thousand one pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) Registered through the international registration plan; and

(B) Operated under authority of a carrier authorized and certificated by the United States department of transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

(iii) Aircraft that are operated by air carriers authorized and certificated by the United States department of transportation or another federal or foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; or

(iv) Containers designed for use on and component parts attached or secured on the items described in ((f)) (g)(i) through (iii) of this subsection.

(10) In those instances where there is no obligation on the part of a seller to collect or remit this state's sales or use tax, the use of
tangible personal property, digital good, digital code, or of a digital
automated service or other service, subject to use tax, is sourced to
the place of first use in this state. The definition of use in RCW
82.12.010 applies to this subsection.

Sec. 230. RCW 82.36.440 and 2003 c 350 s 5 are each amended to
read as follows:
(1) The tax levied in this chapter is in lieu of any excise,
privilege, or occupational tax upon the business of manufacturing,
selling, or distributing motor vehicle fuel, and no city, town, county,
township or other subdivision or municipal corporation of the state
shall may levy or collect any excise tax upon or measured by the
sale, receipt, distribution, or use of motor vehicle fuel, except as
provided in chapter 82.80 RCW and RCW 82.47.020.
(2) This section does not apply to any tax imposed by the state.

Sec. 231. RCW 82.38.280 and 2003 c 350 s 6 are each amended to
read as follows:
(1) The tax levied in this chapter is in lieu of any excise,
privilege, or occupational tax upon the business of manufacturing,
selling, or distributing special fuel, and no city, town, county,
township or other subdivision or municipal corporation of the state
shall may levy or collect any excise tax upon or measured by the
sale, receipt, distribution, or use of special fuel, except as provided
in chapter 82.80 RCW and RCW 82.47.020.
(2) This section does not apply to any tax imposed by the state.

Sec. 232. RCW 82.62.010 and 2007 c 485 s 1 are each amended to
read as follows:
Unless the context clearly requires otherwise, the definitions in
this section apply throughout this chapter.
(1) "Applicant" means a person applying for a tax credit under this
chapter.
(2) "Department" means the department of revenue.
(3) "Eligible area" means an area as defined in RCW 82.60.020.
(4)(a) "Eligible business project" means manufacturing or research
and development activities which are conducted by an applicant in an
eligible area at a specific facility, provided the applicant's average
qualified employment positions at the specific facility will be at least fifteen percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010((5)) or that portion of a business project creating qualified full-time employment positions outside an eligible area.

(5) "First qualified employment position" means the first qualified employment position filled for which a credit under this chapter is sought.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8)(a)(i) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during four consecutive full calendar quarters.

(ii) For seasonal employers, "qualified employment position" also includes the equivalent of a full-time employee in work hours for four consecutive full calendar quarters.

(b) For purposes of this subsection, "full time" means a normal work week of at least thirty-five hours.

(c) Once a permanent, full-time employee has been employed, a position does not cease to be a qualified employment position solely due to periods in which the position goes vacant, as long as:

(i) The cumulative period of any vacancies in that position is not more than one hundred twenty days in the four-quarter period; and

(ii) During a vacancy, the employer is training or actively recruiting a replacement permanent, full-time employee for the position.

(9) "Recipient" means a person receiving tax credits under this chapter.
(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(11) "Seasonal employee" means an employee of a seasonal employer who works on a seasonal basis. For the purposes of this subsection and subsection (12) of this section, "seasonal basis" means a continuous employment period of less than twelve consecutive months.

(12) "Seasonal employer" means a person who regularly hires more than fifty percent of its employees to work on a seasonal basis.

Sec. 233. RCW 82.80.120 and 2006 c 311 s 18 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030;

(c) "District" means a regional transportation investment district under chapter 36.120 RCW.

(2) A regional transportation investment district under chapter 36.120 RCW, subject to the conditions of this section, may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the district. The additional excise tax is subject to the approval of a majority of the voters within the district boundaries. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the district's fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified. The commencement
date for the levy of any tax under this section will be the first day
of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor
vehicle fuel and on each gallon of special fuel is imposed upon the
distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon
the first distribution of the fuel within the boundaries of the
district to a retail outlet, bulk fuel user, or ultimate user of the
fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and
82.32 RCW, insofar as they are applicable, apply to local option fuel
taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes
under this section, a district must contract with the
department of revenue for the administration and
collection of the taxes. The contract must provide that a percentage
amount, not to exceed one percent of the taxes imposed under this
section, will be deposited into the local tax administration account
created in the custody of the state treasurer. The department of
revenue may spend money from this account, upon
appropriation, for the administration of the local taxes imposed under
this section.

(7) The state treasurer must distribute monthly to the
district levying the tax as part of the regional transportation
investment district plan, after the deductions for payments and
expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a district in
this section, to be used as a part of a regional transportation
investment district plan, must be used in accordance with chapter
36.120 RCW, but only for those areas that are considered "highway
purposes" as that term is construed in Article II, section 40 of the
state Constitution.

(9) A district may only levy the tax under this section if the
district is comprised of boundaries identical to the boundaries of a
county or counties. A district may not levy the tax in this section if
a member county is levying the tax in RCW 82.80.010 or 82.80.110.
Sec. 234. RCW 83.100.040 and 2005 c 516 s 3 are each amended to read as follows:

(1) A tax in an amount computed as provided in this section is imposed on every transfer of property located in Washington. For the purposes of this section, any intangible property owned by a resident is located in Washington.

(2) (a) Except as provided in (b) of this subsection, the amount of tax is the amount provided in the following table:

<table>
<thead>
<tr>
<th>Washington Taxable Estate Value</th>
<th>Initial Tax Amount</th>
<th>Plus Tax Rate %</th>
<th>Taxable Estate Value</th>
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<tr>
<td>$0</td>
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<td>$12,000,000</td>
</tr>
</tbody>
</table>

(b) If any property in the decedent's estate is located outside of Washington, the amount of tax is the amount determined in (a) of this subsection multiplied by a fraction. The numerator of the fraction is the value of the property located in Washington. The denominator of the fraction is the value of the decedent's gross estate. Property qualifying for a deduction under RCW 83.100.046 ((shall)) must be excluded from the numerator and denominator of the fraction.

(3) The tax imposed under this section is a stand-alone estate tax that incorporates only those provisions of the internal revenue code as amended or renumbered as of January 1, 2005, that do not conflict with the provisions of this chapter. The tax imposed under this chapter is independent of any federal estate tax obligation and is not affected by termination of the federal estate tax.
Sec. 235. RCW 83.100.046 and 2005 c 514 s 1201 are each amended to read as follows:

(1) For the purposes of determining the Washington taxable estate, a deduction is allowed from the federal taxable estate for:

(a) The value of qualified real property reduced by any amounts allowable as a deduction in respect of the qualified real property and tangible personal property under \((\text{section})\) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code, if the decedent was at the time of his or her death a citizen or resident of the United States.

(b) The value of any tangible personal property used by the decedent or a member of the decedent's family for a qualified use on the date of the decedent's death, reduced by any amounts allowable as a deduction in respect of the tangible personal property under \((\text{section})\) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code, if all of the requirements of subsection (10)(f)(i)(A) of this section are met and the decedent was at the time of his or her death a citizen or resident of the United States.

(c) The value of real property that is not deductible under (a) of this subsection solely by reason of subsection (10)(f)(i)(B) of this section, reduced by any amounts allowable as a deduction in respect of the \((\text{qualified})\) real property \((\text{and tangible personal property})\) under \((\text{section})\) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code, if the requirements of subsection (10)(f)(i)(C) of this section are met with respect to the property and the decedent was at the time of his or her death a citizen or resident of the United States.

(2) Property \((\text{shall})\) will be considered to have been acquired from or to have passed from the decedent if:

(a) The property is so considered under \((\text{section})\) 26 U.S.C. Sec. 1014(b) of the federal internal revenue code;

(b) The property is acquired by any person from the estate; or

(c) The property is acquired by any person from a trust, to the extent the property is includible in the gross estate of the decedent.

(3) If the decedent and the decedent's surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in the property \((\text{shall})\) must be taken into account under this section to the extent necessary to provide a result under
this section with respect to the property which is consistent with the result which would have obtained under this section if the property had not been community property.

(4) In the case of any qualified woodland, the value of trees growing on the woodland may be deducted if otherwise qualified under this section.

(5) If property is qualified real property with respect to a decedent, hereinafter in this subsection referred to as the "first decedent," and the property was acquired from or passed from the first decedent to the surviving spouse of the first decedent, active management of the farm by the surviving spouse ((shall)) must be treated as material participation by the surviving spouse in the operation of the farm.

(6) Property owned indirectly by the decedent may qualify for a deduction under this section if owned through an interest in a corporation, partnership, or trust as the terms corporation, partnership, or trust are used in ((section)) 26 U.S.C. Sec. 2032A(g) of the federal internal revenue code. In order to qualify for a deduction under this subsection, the interest, in addition to meeting the other tests for qualification under this section, must qualify under ((section)) 26 U.S.C. Sec. 6166(b)(1) of the federal internal revenue code as an interest in a closely held business on the date of the decedent's death and for sufficient other time, combined with periods of direct ownership, to equal at least five years of the eight-year period preceding the death.

(7)(a) If, on the date of the decedent's death, the requirements of subsection (10)(f)(i)(C)(II) of this section with respect to the decedent for any property are not met, and the decedent (i) was receiving old age benefits under Title II of the social security act for a continuous period ending on such date, or (ii) was disabled for a continuous period ending on this date, then subsection (10)(f)(i)(C)(II) of this section ((shall)) must be applied with respect to the property by substituting "the date on which the longer of such continuous periods began" for "the date of the decedent's death" in subsection (10)(f)(i)(C) of this section.

(b) For the purposes of (a) of this subsection, an individual ((shall be)) is disabled if the individual has a mental or physical
impairment which renders that individual unable to materially participate in the operation of the farm.

(8) Property may be deducted under this section whether or not special valuation is elected under ((section)) 26 U.S.C. Sec. 2032A of the federal internal revenue code on the federal return. For the purposes of determining the deduction under this section, the value of property is its value as used to determine the value of the gross estate.

(9)(a) In the case of any qualified replacement property, any period during which there was ownership, qualified use, or material participation with respect to the replaced property by the decedent or any member of the decedent's family ((shall)) must be treated as a period during which there was ownership, use, or material participation, as the case may be, with respect to the qualified replacement property.

(b) Subsection (9)(a) of this section ((shall)) does not apply to the extent that the fair market value of the qualified replacement property, as of the date of its acquisition, exceeds the fair market value of the replaced property, as of the date of its disposition.

(c) For the purposes of this subsection (9), the following definitions apply:

(i)(A) "Qualified replacement property" means any real property:

((A)) (I) Which is acquired in an exchange which qualifies under ((section)) 26 U.S.C. Sec. 1031 of the federal internal revenue code; or

((B)) (II) The acquisition of which results in the nonrecognition of gain under ((section)) 26 U.S.C. Sec. 1033 of the federal internal revenue code.

(B) The term "qualified replacement property" only includes property which is used for the same qualified use as the replaced property was being used before the exchange.

(ii) "Replaced property" means the property was:

(A) Transferred in the exchange which qualifies under ((section)) 26 U.S.C. Sec. 1031 of the federal internal revenue code; or

(B) Compulsorily or involuntarily converted within the meaning of section 1033 of the Internal Revenue Code.

(10) For the purposes of this section, the following definitions apply:
(a) "Active management" means the making of the management
decisions of a farm, other than the daily operating decisions.
(b) "Farm" includes stock, dairy, poultry, fruit, furbearing
animal, and truck farms; plantations; ranches; nurseries; ranges;
greenhouses or other similar structures used primarily for the raising
of agricultural or horticultural commodities; and orchards and
woodlands.
(c) "Farming purposes" means:
(i) Cultivating the soil or raising or harvesting any agricultural
or horticultural commodity, including the raising, shearing, feeding,
caring for, training, and management of animals on a farm;
(ii) Handling, drying, packing, grading, or storing on a farm any
agricultural or horticultural commodity in its unmanufactured state,
but only if the owner, tenant, or operator of the farm regularly
produces more than one-half of the commodity so treated; and
(iii)(A) The planting, cultivating, caring for, or cutting of
trees; or
(B) The preparation, other than milling, of trees for market.
(d)(i) "Member of the family" means, with respect to any
individual, only:
((i)) (A) An ancestor of the individual;
((ii)) (B) The spouse of the individual;
((iii)) (C) A lineal descendant of the individual, of the
individual's spouse, or of a parent of the individual; or
((iv)) (D) The spouse of any lineal descendant described in
(d)((iii)) (I)(C) of this subsection.
(ii) For the purposes of this subsection (10)(d), a legally adopted
child of an individual ((shall)) must be treated as the child of such
individual by blood.
(e) "Qualified heir" means, with respect to any property, a member
of the decedent's family who acquired property, or to whom property
passed, from the decedent.
(f)(i) "Qualified real property" means real property which was
acquired from or passed from the decedent to a qualified heir of the
decedent and which, on the date of the decedent's death, was being used
for a qualified use by the decedent or a member of the decedent's
family, but only if:
(A) Fifty percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which:

(I) On the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family; and

(II) Was acquired from or passed from the decedent to a qualified heir of the decedent;

(B) Twenty-five percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and

(C) During the eight-year period ending on the date of the decedent's death there have been periods aggregating five years or more during which:

(I) The real property was owned by the decedent or a member of the decedent's family and used for a qualified use by the decedent or a member of the decedent's family; and

(II) There was material participation by the decedent or a member of the decedent's family in the operation of the farm. For the purposes of this subsection (f)(i)(C)(II), material participation must be determined in a manner similar to the manner used for purposes of (section) 26 U.S.C. Sec. 1402(a)(1) of the federal internal revenue code.

(ii) For the purposes of this subsection, the term "adjusted value" means:

(A) In the case of the gross estate, the value of the gross estate, determined without regard to any special valuation under (section) 26 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by any amounts allowable as a deduction under (section) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code; or

(B) In the case of any real or personal property, the value of the property for purposes of chapter 11 of the federal internal revenue code, determined without regard to any special valuation under (section) 26 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by any amounts allowable as a deduction in respect of such property under (section) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code.

(g) "Qualified use" means the property is used as a farm for farming purposes. In the case of real property which meets the requirements of (f)(i)(C) of this subsection, residential buildings and
related improvements on the real property occupied on a regular basis by the owner or lessee of the real property or by persons employed by the owner or lessee for the purpose of operating or maintaining the real property, and roads, buildings, and other structures and improvements functionally related to the qualified use ((shall)) must be treated as real property devoted to the qualified use. For tangible personal property eligible for a deduction under subsection (1)(b) of this section, "qualified use" means the property is used primarily for farming purposes on a farm.

(h) "Qualified woodland" means any real property which:
   (i) Is used in timber operations; and
   (ii) Is an identifiable area of land such as an acre or other area for which records are normally maintained in conducting timber operations.

(i) "Timber operations" means:
   (i) The planting, cultivating, caring for, or cutting of trees; or
   (ii) The preparation, other than milling, of trees for market.

Sec. 236. RCW 83.100.046 and 2009 c 521 s 191 are each amended to read as follows:
(1) For the purposes of determining the Washington taxable estate, a deduction is allowed from the federal taxable estate for:
(a) The value of qualified real property reduced by any amounts allowable as a deduction in respect of the qualified real property ((and tangible personal property)) under ((section)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code, if the decedent was at the time of his or her death a citizen or resident of the United States.
(b) The value of any tangible personal property used by the decedent or a member of the decedent's family for a qualified use on the date of the decedent's death, reduced by any amounts allowable as a deduction in respect of the tangible personal property under ((section)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code, if all of the requirements of subsection (10)(f)(i)(A) of this section are met and the decedent was at the time of his or her death a citizen or resident of the United States.
(c) The value of real property that is not deductible under (a) of this subsection solely by reason of subsection (10)(f)(i)(B) of this
section, reduced by any amounts allowable as a deduction in respect of the ((qualified)) real property ((and tangible personal property)) under ((section)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code, if the requirements of subsection (10)(f)(i)(C) of this section are met with respect to the property and the decedent was at the time of his or her death a citizen or resident of the United States.

(2) Property ((shall)) will be considered to have been acquired from or to have passed from the decedent if:

(a) The property is so considered under ((section)) 26 U.S.C. Sec. 1014(b) of the federal internal revenue code;

(b) The property is acquired by any person from the estate; or

(c) The property is acquired by any person from a trust, to the extent the property is includible in the gross estate of the decedent.

(3) If the decedent and the decedent's surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in the property ((shall)) must be taken into account under this section to the extent necessary to provide a result under this section with respect to the property which is consistent with the result which would have obtained under this section if the property had not been community property.

(4) In the case of any qualified woodland, the value of trees growing on the woodland may be deducted if otherwise qualified under this section.

(5) If property is qualified real property with respect to a decedent, hereinafter in this subsection referred to as the "first decedent," and the property was acquired from or passed from the first decedent to the surviving spouse of the first decedent, active management of the farm by the surviving spouse ((shall)) must be treated as material participation by the surviving spouse in the operation of the farm.

(6) Property owned indirectly by the decedent may qualify for a deduction under this section if owned through an interest in a corporation, partnership, or trust as the terms corporation, partnership, or trust are used in ((section)) 26 U.S.C. Sec. 2032A(g) of the federal internal revenue code. In order to qualify for a deduction under this subsection, the interest, in addition to meeting the other tests for qualification under this section, must qualify
under [section) 26 U.S.C. Sec. 6166(b)(1) of the federal internal
revenue code as an interest in a closely held business on the date of
the decedent's death and for sufficient other time, combined with
periods of direct ownership, to equal at least five years of the eight-
year period preceding the death.

(7)(a) If, on the date of the decedent's death, the requirements of
subsection (10)(f)(i)(C)(II) of this section with respect to the
decedent for any property are not met, and the decedent (i) was
receiving old age benefits under Title II of the social security act
for a continuous period ending on such date, or (ii) was disabled for
a continuous period ending on this date, then subsection
(10)(f)(i)(C)(II) of this section must be applied with
respect to the property by substituting "the date on which the longer
of such continuous periods began" for "the date of the decedent's
death" in subsection (10)(f)(i)(C) of this section.

(b) For the purposes of (a) of this subsection, an individual
is disabled if the individual has a mental or physical
impairment which renders that individual unable to materially
participate in the operation of the farm.

(8) Property may be deducted under this section whether or not
special valuation is elected under 26 U.S.C. Sec. 2032A of
the federal internal revenue code on the federal return. For the
purposes of determining the deduction under this section, the value of
property is its value as used to determine the value of the gross
estate.

(9)(a) In the case of any qualified replacement property, any
period during which there was ownership, qualified use, or material
participation with respect to the replaced property by the decedent or
any member of the decedent's family must be treated as a
period during which there was ownership, use, or material
participation, as the case may be, with respect to the qualified
replacement property.

(b) Subsection (9)(a) of this section does not apply to
the extent that the fair market value of the qualified replacement
property, as of the date of its acquisition, exceeds the fair market
value of the replaced property, as of the date of its disposition.

(c) For the purposes of this subsection (9), the following
definitions apply:
"Qualified replacement property" means any real property:
((A)) (I) Which is acquired in an exchange which qualifies under ((section)) 26 U.S.C. Sec. 1031 of the federal internal revenue code; or
((B)) (II) The acquisition of which results in the nonrecognition of gain under ((section)) 26 U.S.C. Sec. 1033 of the federal internal revenue code.

(B) The term "qualified replacement property" only includes property which is used for the same qualified use as the replaced property was being used before the exchange.

(ii) "Replaced property" means the property was:

(A) Transferred in the exchange which qualifies under ((section)) 26 U.S.C. Sec. 1031 of the federal internal revenue code; or

(B) Compulsorily or involuntarily converted within the meaning of ((section)) 26 U.S.C. Sec. 1033 of the federal internal revenue code.

(10) For the purposes of this section, the following definitions apply:

(a) "Active management" means the making of the management decisions of a farm, other than the daily operating decisions.

(b) "Farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms; plantations; ranches; nurseries; ranges; greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities; and orchards and woodlands.

(c) "Farming purposes" means:

(i) Cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of animals on a farm;

(ii) Handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

(iii)(A) The planting, cultivating, caring for, or cutting of trees; or

(B) The preparation, other than milling, of trees for market.

(d)(i) "Member of the family" means, with respect to any individual, only:

((A)) An ancestor of the individual;
((ii)) (B) The spouse or state registered domestic partner of the individual;
((iii)) (C) A lineal descendant of the individual, of the individual's spouse or state registered domestic partner, or of a parent of the individual; or
((iv)) (D) The spouse or state registered domestic partner of any lineal descendant described in (d)((iii)) (1)(C) of this subsection.

(ii) For the purposes of this subsection (10)(d), a legally adopted child of an individual ((shall)) must be treated as the child of such individual by blood.

(e) "Qualified heir" means, with respect to any property, a member of the decedent's family who acquired property, or to whom property passed, from the decedent.

(f)(i) "Qualified real property" means real property which was acquired from or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family, but only if:

(A) Fifty percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which:

(I) On the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family; and

(II) Was acquired from or passed from the decedent to a qualified heir of the decedent;

(B) Twenty-five percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of (f)(i)(A)(II) and (f)(i)(C) of this subsection; and

(C) During the eight-year period ending on the date of the decedent's death there have been periods aggregating five years or more during which:

(I) The real property was owned by the decedent or a member of the decedent's family and used for a qualified use by the decedent or a member of the decedent's family; and

(II) There was material participation by the decedent or a member of the decedent's family in the operation of the farm. For the purposes of this subsection (f)(i)(C)(II), material participation ((shall)) must be determined in a manner similar to the manner used for
purposes of ((section)) 26 U.S.C. Sec. 1402(a)(1) of the federal internal revenue code.

(ii) For the purposes of this subsection, the term "adjusted value" means:

(A) In the case of the gross estate, the value of the gross estate, determined without regard to any special valuation under ((section)) 26 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by any amounts allowable as a deduction under ((section)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code; or

(B) In the case of any real or personal property, the value of the property for purposes of chapter 11 of the federal internal revenue code, determined without regard to any special valuation under ((section)) 26 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by any amounts allowable as a deduction in respect of such property under ((section)) 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code.

(g) "Qualified use" means the property is used as a farm for farming purposes. In the case of real property which meets the requirements of (f)(i)(C) of this subsection, residential buildings and related improvements on the real property occupied on a regular basis by the owner or lessee of the real property or by persons employed by the owner or lessee for the purpose of operating or maintaining the real property, and roads, buildings, and other structures and improvements functionally related to the qualified use ((shall)) must be treated as real property devoted to the qualified use. For tangible personal property eligible for a deduction under subsection (1)(b) of this section, "qualified use" means the property is used primarily for farming purposes on a farm.

(h) "Qualified woodland" means any real property which:

(i) Is used in timber operations; and

(ii) Is an identifiable area of land such as an acre or other area for which records are normally maintained in conducting timber operations.

(i) "Timber operations" means:

(i) The planting, cultivating, caring for, or cutting of trees; or

(ii) The preparation, other than milling, of trees for market.
PART III
PROPERTY TAX

Sec. 301. RCW 29A.36.210 and 2004 c 80 s 2 are each amended to read as follows:

(1) The ballot proposition authorizing a taxing district to impose the regular property tax levies authorized in RCW 36.68.525, 36.69.145, 67.38.130, 84.52.069, or 84.52.135 must contain in substance the following:

"(Shall) Will the . . . . . . (insert the name of the taxing district) be authorized to impose regular property tax levies of . . . . . . (insert the maximum rate) or less per thousand dollars of assessed valuation for each of . . . . . . (insert the maximum number of years allowable) consecutive years?

Yes . . . . . . . . . . . . . . □

No . . . . . . . . . . . . . . □"

Each voter may indicate either "Yes" or "No" on his or her ballot in accordance with the procedures established under this title.

(2) The ballot proposition authorizing a taxing district to impose a permanent regular tax levy under RCW 84.52.069 must contain in substance the following:

"(Shall) Will the . . . . . . (insert the name of the taxing district) be authorized to impose a PERMANENT regular property levy of . . . . . . (insert the maximum rate) or less per thousand dollars of assessed valuation?

Yes . . . . . . . . . . . . . . □

No . . . . . . . . . . . . . . □"

Sec. 302. RCW 36.68.525 and 1994 c 156 s 5 are each amended to read as follows:

A park and recreation service area may impose regular property tax levies in an amount equal to sixty cents or less per thousand dollars of assessed value of property in the service area in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof approving a proposition authorizing the levies submitted not more than twelve months prior to the date on which the proposed initial levy is to be made and not
oftener than twice in such twelve month period, either at a special
election or at the regular election of the service area, at which
election the number of voters voting "yes" on the proposition ((shall))
**must** constitute three-fifths of a number equal to forty percent of the
number of voters voting in the service area at the last preceding
general election when the number of voters voting on the proposition
does not exceed forty percent of the number of voters voting in such
taxing district in the last preceding general election; or by a
majority of at least three-fifths of the voters thereof voting on the
proposition if the number of voters voting on the proposition exceeds
forty per centum of the number of voters voting in such taxing district
in the last preceding general election. A proposition authorizing such
tax levies ((shall)) **may** not be submitted by a park and recreation
service area more than twice in any twelve-month period. Ballot
If a park and recreation service area is levying property taxes, which
in combination with property taxes levied by other taxing districts
result in taxes in excess of the ((nine-dollar and fifteen cents per
thousand dollars of assessed valuation)) limitation provided for in RCW
84.52.043(2), the park and recreation service area property tax levy
((shall)) **must** be reduced or eliminated ((before the property tax
levies of other taxing districts are reduced)) **as provided in** RCW
84.52.010.

**Sec. 303.** RCW 36.69.145 and 1994 c 156 s 3 are each amended to
read as follows:

(1) A park and recreation district may impose regular property tax
levies in an amount equal to sixty cents or less per thousand dollars
of assessed value of property in the district in each year for six
consecutive years when specifically authorized so to do by a majority
of at least three-fifths of the voters thereof approving a proposition
authorizing the levies submitted at a special election or at the
regular election of the district, at which election the number of
voters voting "yes" on the proposition ((shall)) **must** constitute three-
fifths of a number equal to forty per centum of the number of voters
voting in such district at the last preceding general election when the
number of voters voting on the proposition does not exceed forty per
centum of the number of voters voting in such taxing district in the
last preceding general election; or by a majority of at least three-
fifths of the voters thereof voting on the proposition if the number of
voters voting on the proposition exceeds forty per centum of the number
of voters voting in such taxing district in the last preceding general
election. A proposition authorizing the tax levies (shall) may not
be submitted by a park and recreation district more than twice in any
twelve-month period. Ballot propositions (shall) must conform with
RCW (29.30.111) 29A.36.210. In the event a park and recreation
district is levying property taxes, which in combination with property
taxes levied by other taxing districts subject to the one percent
limitation provided for in Article 7, section 2, of our state
Constitution result in taxes in excess of the limitation provided for
in RCW 84.52.043(2), the park and recreation district property tax levy
(shall) must be reduced or eliminated (before the property tax
levies of other taxing districts are reduced) as provided in RCW
84.52.010.

(2) The limitation in RCW 84.55.010 (shall) does not apply to the
first levy imposed under this section following the approval of the
levies by the voters under subsection (1) of this section.

Sec. 304. RCW 84.34.020 and 2009 c 513 s 1 and 2009 c 255 s 1 are
each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is required by
the context:

(1) "Open space land" means (a) any land area so designated by an
official comprehensive land use plan adopted by any city or county and
zoned accordingly, or (b) any land area, the preservation of which in
its present use would (i) conserve and enhance natural or scenic
resources, or (ii) protect streams or water supply, or (iii) promote
conservation of soils, wetlands, beaches or tidal marshes, or (iv)
have the value to the public of abutting or neighboring parks,
forests, wildlife preserves, nature reservations or sanctuaries or
other open space, or (v) enhance recreation opportunities, or (vi)
preserve historic sites, or (vii) preserve visual quality along
highway, road, and street corridors or scenic vistas, or (viii) retain
in its natural state tracts of land not less than one acre situated in
an urban area and open to public use on such conditions as may be
reasonably required by the legislative body granting the open space

p. 93 E2SHB 1597.SL
classification, or (c) any land meeting the definition of farm and
agricultural conservation land under subsection (8) of this section.
As a condition of granting open space classification, the legislative
body may not require public access on land classified under (b)(iii) of
this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple
parcels of land that are contiguous and total twenty or more acres:
   (i) Devoted primarily to the production of livestock or
       agricultural commodities for commercial purposes;
   (ii) Enrolled in the federal conservation reserve program or its
        successor administered by the United States department of agriculture;
        or
   (iii) Other similar commercial activities as may be established by
        rule;

(b)(i) Any parcel of land that is five acres or more but less than
twenty acres devoted primarily to agricultural uses, which has produced
a gross income from agricultural uses equivalent to, as of January 1,
1993:
   (A) One hundred dollars or more per acre per year for three of the
       five calendar years preceding the date of application for
       classification under this chapter for all parcels of land that are
       classified under this subsection or all parcels of land for which an
       application for classification under this subsection is made with the
       granting authority prior to January 1, 1993; and
   (B) On or after January 1, 1993, two hundred dollars or more per
       acre per year for three of the five calendar years preceding the date
       of application for classification under this chapter;
   (ii) For the purposes of (b)(i) of this subsection, "gross income
       from agricultural uses" includes, but is not limited to, the wholesale
       value of agricultural products donated to nonprofit food banks or
       feeding programs;
   (c) Any parcel of land of less than five acres devoted primarily to
       agricultural uses which has produced a gross income as of January 1, 
       1993, of:
       (i) One thousand dollars or more per year for three of the five
           calendar years preceding the date of application for classification
           under this chapter for all parcels of land that are classified under
this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter. Parcels of land described in (b)(i)(A) and (c)(i) of this subsection \((\text{shall})\) will, upon any transfer of the property excluding a transfer to a surviving spouse or surviving state registered domestic partner, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;

(d) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:

(i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or

(iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year;

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not
contiguous, but which otherwise constitutes an integral part of farming
operations being conducted on land qualifying under this section as
"farm and agricultural lands";

(f) The land on which housing for employees and the principal place
of residence of the farm operator or owner of land classified pursuant
to (a) of this subsection is sited if: The housing or residence is on
or contiguous to the classified parcel; and the use of the housing or
the residence is integral to the use of the classified land for
agricultural purposes; or

(g) Any land that is used primarily for equestrian related
activities for which a charge is made, including, but not limited to,
stabling, training, riding, clinics, schooling, shows, or grazing for
feed and that otherwise meet the requirements of (a), (b), or (c) of
this subsection.

(3) "Timber land" means any parcel of land that is five or more
acres or multiple parcels of land that are contiguous and total five or
more acres which is or are devoted primarily to the growth and harvest
of timber for commercial purposes. Timber land means the land only and
does not include a residential homesite. The term includes land used
for incidental uses that are compatible with the growing and harvesting
of timber but no more than ten percent of the land may be used for such
incidental uses. It also includes the land on which appurtenances
necessary for the production, preparation, or sale of the timber
products exist in conjunction with land producing these products.

(4) "Current" or "currently" means as of the date on which property
is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in
land, except that where land is subject to real estate contract "owner"
((shall)) means the contract vendee.

(6) "Contiguous" means land adjoining and touching other property
held by the same ownership. Land divided by a public road, but
otherwise an integral part of a farming operation, ((shall be)) is
considered contiguous.

(7) "Granting authority" means the appropriate agency or official
who acts on an application for classification of land pursuant to this
chapter.

(8) "Farm and agricultural conservation land" means either:
(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

Sec. 305. RCW 84.36.040 and 2001 c 126 s 1 are each amended to read as follows:

(1) The real and personal property used by (nonprofit), and for the purposes of, the following nonprofit organizations is exempt from property taxation:

(a) Child day care centers as defined (pursuant to RCW 74.15.020) in subsection (4) of this section;

(b) Free public libraries;

(c) Orphanages and orphan asylums;

(d) Homes for the sick or infirm;

(e) Hospitals for the sick; and

(f) Outpatient dialysis facilities (which are used for the purposes of such organizations shall be exempt from taxation; PROVIDED, That the benefit of the exemption inures to the user).

(2) The real and personal property leased to and used by a hospital for hospital purposes is exempt from property taxation if the hospital is established under chapter 36.62 RCW or is owned and operated by a public hospital district established under chapter 70.44 RCW (for hospital purposes is exempt from taxation. The benefit of the exemption must inure to the user).

(3) To be exempt under this section, the property must be used exclusively for the purposes for which exemption is granted, except as provided in RCW 84.36.805, and the benefit of the exemption must inure to the user.

(4) For purposes of subsection (1) of this section, "child day care center" means a nonprofit organization that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours.
Sec. 306. RCW 84.36.381 and 2008 c 6 s 706 are each amended to read as follows:

A person (shall be) is exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of the time of filing (Provided, That). However, any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant (shall) may receive an exemption on more than one residence in any year (Provided Further, That). Moreover, confinement of the person to a hospital, nursing home, boarding home, or adult family home (shall) does not disqualify the claim of exemption if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support; or

(c) The residence is rented for the purpose of paying nursing home, hospital, boarding home, or adult family home costs;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or state registered domestic partnership or owned by cotenants (shall be) is deemed to be owned by each spouse or each domestic partner or each cotenant, and any lease for life (shall be) is deemed a life estate;

(3) The person claiming the exemption must be (a) sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability, or (b) a veteran of the armed forces of the United States with one hundred percent service-connected disability as provided in 42 U.S.C. Sec. 423 (d)(1)(A) as
amended prior to January 1, 2005, or such subsequent date as the department may provide by rule consistent with the purpose of this section. However, any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death will qualify if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person is exempt from an obligation to pay is calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the assessment year, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the assessment year by reason of the death of the person's spouse or the person's domestic partner, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person must be calculated by multiplying the average monthly combined disposable income of such person after such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application;

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income of thirty-five thousand dollars or less is exempt from all excess property taxes; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income of thirty thousand dollars or less but greater than twenty-five thousand dollars is exempt from all regular property taxes on the greater of fifty thousand dollars or thirty-five percent of the valuation of his or her residence, but not to exceed seventy thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of twenty-five thousand dollars or less is exempt from all regular property taxes on the greater
of sixty thousand dollars or sixty percent of the valuation of his or her residence;

(6) (a) For a person who otherwise qualifies under this section and has a combined disposable income of thirty-five thousand dollars or less, the valuation of the residence (shall be) is the assessed value of the residence on the later of January 1, 1995, or January 1st of the assessment year the person first qualifies under this section. If the person subsequently fails to qualify under this section only for one year because of high income, this same valuation (shall) must be used upon requalification. If the person fails to qualify for more than one year in succession because of high income or fails to qualify for any other reason, the valuation upon requalification (shall be) is the assessed value on January 1st of the assessment year in which the person requalifies. If the person transfers the exemption under this section to a different residence, the valuation of the different residence (shall be) is the assessed value of the different residence on January 1st of the assessment year in which the person transfers the exemption.

(b) In no event may the valuation under this subsection be greater than the true and fair value of the residence on January 1st of the assessment year.

(c) This subsection does not apply to subsequent improvements to the property in the year in which the improvements are made. Subsequent improvements to the property (shall) must be added to the value otherwise determined under this subsection at their true and fair value in the year in which they are made.

Sec. 307. RCW 84.36.383 and 2008 c 182 s 1 and 2008 c 6 s 709 are each reenacted and amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" means a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre, except that a residence includes any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations. The term ((shall)) also includes a share ownership in a cooperative housing
(2) The term "real property" means a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities. A mobile home located on land leased by the owner of the mobile home is subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) "Department" means the state department of revenue.

(4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

(a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;

(b) The treatment or care of either person received in the home or in a nursing home, boarding home, or adult family home; and

(c) Health care insurance premiums for medicare under Title XVIII of the social security act.

(5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than gain excluded from income under
section 121 of the federal internal revenue code to the extent it is
reinvested in a new principal residence;
   (b) Amounts deducted for loss;
   (c) Amounts deducted for depreciation;
   (d) Pension and annuity receipts;
   (e) Military pay and benefits other than attendant-care and
       medical-aid payments;
   (f) Veterans benefits, other than:
       (i) Attendant-care payments;
       (ii) Medical-aid payments;
       (iii) Disability compensation, as defined in Title 38, part 3,
           section 3.4 of the code of federal regulations, as of January 1, 2008;
       and
       (iv) Dependency and indemnity compensation, as defined in Title 38,
           part 3, section 3.5 of the code of federal regulations, as of January
           1, 2008;
   (g) Federal social security act and railroad retirement benefits;
   (h) Dividend receipts; and
   (i) Interest received on state and municipal bonds.
(6) "Cotenant" means a person who resides with the person claiming
the exemption and who has an ownership interest in the residence.
(7) "Disability" has the same meaning as provided in 42 U.S.C. Sec.
423(d)(1)(A) as amended prior to January 1, 2004, or such
subsequent date as the department may provide by rule
consistent with the purpose of this section.

Sec. 308. RCW 84.36.385 and 2001 c 185 s 8 are each amended to
read as follows:
(1) A claim for exemption under RCW 84.36.381 as now or hereafter
amended, may be made and filed at any time during the year
for exemption from taxes payable the following year and thereafter and
solely upon forms as prescribed and furnished by the department of
revenue. However, an exemption from tax under RCW 84.36.381
continues for no more than six years unless a renewal
application is filed as provided in subsection (3) of this section.
The county assessor may also require, by written notice, a renewal
application following an amendment of the income requirements set forth
in RCW 84.36.381. Renewal applications ((shall)) must be on forms prescribed and furnished by the department of revenue.

(2) A person granted an exemption under RCW 84.36.381 ((shall)) must inform the county assessor of any change in status affecting the person's entitlement to the exemption on forms prescribed and furnished by the department of revenue.

(3) Each person exempt from taxes under RCW 84.36.381 in 1993 and thereafter, ((shall)) must file with the county assessor a renewal application not later than December 31 of the year the assessor notifies such person of the requirement to file the renewal application.

(4) Beginning in 1992 and in each of the three succeeding years, the county assessor ((shall)) must notify approximately one-fourth of those persons exempt from taxes under RCW 84.36.381 in the current year who have not filed a renewal application within the previous four years, of the requirement to file a renewal application.

(5) If the assessor finds that the applicant does not meet the qualifications as set forth in RCW 84.36.381, as now or hereafter amended, the claim or exemption ((shall)) must be denied but such denial ((shall be)) is subject to appeal under the provisions of RCW 84.48.010((5)) and in accordance with the provisions of RCW 84.40.038. If the applicant had received exemption in prior years based on erroneous information, the taxes ((shall)) must be collected subject to penalties as provided in RCW 84.40.130 for a period of not to exceed ((three)) five years.

(6) The department and each local assessor is hereby directed to publicize the qualifications and manner of making claims under RCW 84.36.381 through 84.36.389, through communications media, including such paid advertisements or notices as it deems appropriate. Notice of the qualifications, method of making applications, the penalties for not reporting a change in status, and availability of further information ((shall)) must be included on or with property tax statements and revaluation notices for all residential property including mobile homes, except rental properties.

**Sec. 309.** RCW 84.37.030 and 2007 sp.s. c 2 s 2 are each amended to read as follows:
A claimant may defer payment of fifty percent of special assessments or real property taxes, or both, listed on the annual tax statement in any year in which all of the following conditions are met:

1. The special assessments or property taxes must be imposed upon a residence that was occupied by the claimant as a principal place of residence as of January 1st of the year in which the assessments and taxes are due, subject to the exceptions allowed under RCW 84.36.381(1);
2. The claimant must have combined disposable income, as defined in RCW 84.36.383, of fifty-seven thousand dollars or less in the calendar year preceding the filing of the declaration;
3. The claimant must have paid one-half of the total amount of special assessments and property taxes listed on the annual tax statement for the year in which the deferral claim is made;
4. A deferral is not allowed for special assessments, property taxes, or both, levied for collection in the first five calendar years in which the person owns the residence;
5. The claimant who defers payment of special assessments or real property taxes, or both, listed on the annual tax statement under this section must also meet the conditions of RCW 84.38.030 (4) and (5);
6. The total amount deferred by a claimant under this chapter must not exceed forty percent of the amount of the claimant's equity value in the claimant's residence; and
7. The claimant may not defer taxes under both this chapter and chapter 84.38 RCW;
8. In the case of deferred special assessments, the claimant must have opted for payment of the assessments on the installment method if this method was available) in the same tax year.

Sec. 310. RCW 84.37.902 and 2007 sp.s. c 2 s 13 are each amended to read as follows:

1. (During calendar year 2011, the joint legislative audit and review committee shall review the property tax deferral program under chapter 84.37 RCW.) Pursuant to chapter 43.136 RCW, the citizen commission for performance measurement of tax preferences must schedule the property tax deferral program under this chapter for a tax preference review by the joint legislative audit and review committee in 2011. The department of revenue and county assessors (shall) must
provide the committee with any data within its purview that the
committee considers necessary to conduct the review. (By December 1,
2011, the joint legislative audit and review committee shall report to
the legislature the results of its review.)

(2) (As part of its review under subsection (1) of this section)
In addition to the factors in RCW 43.136.055(1), the committee
shall must also study and report on:

(a) The effectiveness of the property tax deferral program in
  assisting families in economic distress in remaining in their homes;
(b) The effectiveness of the property tax deferral program in
decreasing the default rate on residential mortgages for the statewide
population within the income threshold of the program;
(c) The number of potential participants per thousand population by
  geographic region;
(d) The ratio of actual deferral program participants to potential
deferral program participants by geographic region;
(e) The ratio of average annual household property taxes for
deferral program participants and average annual income of deferral
program participants by geographic region;
(f) Economic conditions in the housing and lending markets for the
  prior three years and the forecasted economic conditions for the
  current biennium and the next succeeding biennium;
(g) Annual costs specific to the administration of the deferral
  program; and
(h) Total annual costs of the deferral program;
(i) Recommended changes to the deferral program that would increase
  program participation;
(j) Any other recommendations the committee may have to improve the
deferral program; and
(k) Any other factors that the committee considers necessary to
   properly evaluate the deferral program).

(3) This section expires January 1, 2012.

Sec. 311. RCW 84.48.050 and 1995 c 134 s 15 are each amended to
read as follows:

(1) The county assessor shall must, on or before the fifteenth
day of January in each year, prepare a complete
abstract of the tax rolls of the county, showing the number of acres that have been assessed and the total value of the real property, including the structures on the real property; the total value of all taxable personal property in the county; the aggregate amount of all taxable property in the county; the total amount as equalized and the total amount of taxes levied in the county for state, county, city, and other taxing district purposes, for that year. ((Should the))

(2) If an assessor of any county fails to transmit to the department of revenue the abstract provided for in RCW 84.48.010, and if (by reason of such failure to transmit such abstract, any) a county ((shall)) fails to collect and pay to the state its due proportion of the state tax for any year because of that failure, the department of revenue ((shall)) must ascertain what amount of state tax ((said)) the county ((has)) failed to collect ((and)). The department must certify ((the same)) to the ((state)) county auditor ((who shall charge the amount to the proper county and notify the auditor of said county of the amount of said charge; said)) the amount of state tax the county failed to collect. This sum ((shall be)) is due and payable immediately by warrant in favor of the state on the current expense fund of ((said)) the county.

Sec. 312. RCW 84.52.030 and 1994 c 124 s 38 are each amended to read as follows:

For the purpose of raising revenue for state, county and other taxing district purposes, the county legislative authority of each county ((at its October session)), and all other officials or boards authorized by law to levy taxes for taxing district purposes, ((shall)) must levy taxes on all the taxable property in the county or district, as the case may be, sufficient for such purposes, and within the limitations permitted by law.

Sec. 313. RCW 84.52.070 and 1994 c 81 s 86 are each amended to read as follows:

(1) It ((shall be)) is the duty of the county legislative authority of each county, on or before the thirtieth day of November in each year, to certify to the county assessor ((of the county)) the amount of taxes levied upon the property in the county for county purposes, and
the respective amounts of taxes levied by the board for each taxing
district, within or coextensive with the county, for district
purposes.  

(2) It is the duty of the council of each city having
a population of three hundred thousand or more, and of the council of
each town, and of all officials or boards of taxing districts within or
coextensive with the county, authorized by law to levy taxes directly
and not through the county legislative authority, on or before the
thirtieth day of November in each year, to certify to the county
assessor the amount of taxes levied upon the property
within the city, town, or district for city, town, or district
purposes.

(3) If a levy amount is certified to the county assessor
after the thirtieth day of November, the county assessor
may use no more than the certified levy amount for the
previous year for the taxing district.  This subsection (3) does not apply to the state levy or when the
assessor has not certified assessed values as required by RCW 84.48.130
at least twelve working days before November 30th.

Sec. 314.  RCW 84.52.080 and 1989 c 378 s 16 are each amended to
read as follows:

(1) The county assessor must extend the taxes upon the
tax rolls in the form prescribed in this section. The rate
percent necessary to raise the amounts of taxes levied for state and
county purposes, and for purposes of taxing districts coextensive with
the county, must be computed upon the assessed value of the
property of the county. The rate percent necessary to raise the
amount of taxes levied for any taxing district within the county
must be computed upon the assessed value of the property of
the district. All taxes assessed against any property must be added together and extended on the rolls in a column headed
consolidated or total tax. In extending any tax, whenever the tax
amounts to a fractional part of a cent greater than one-half of a cent it must be rounded up to one
cent, and whenever it amounts to one-half of a cent or less it must be dropped. The amount of
all taxes **(shall)** must be entered in the proper columns, as shown by entering the rate percent necessary to raise the consolidated or total tax and the total tax assessed against the property.

(2) For the purpose of computing the rate necessary to raise the amount of any excess levy in a taxing district **(which has classified or designated forest land under chapter 84.33 RCW)** entitled to a distribution under RCW 84.33.081, other than the state, the county assessor **(shall)** must add the district's timber assessed value, as defined in RCW 84.33.035, to the assessed value of the property **(provided, That)**. However, for school districts maintenance and operations levies, only one-half of the district's timber assessed value or eighty percent of the timber roll of **(such)** the district in calendar year 1983 as determined under chapter 84.33 RCW, whichever is greater, **(shall)** must be added to the assessed value of the property.

(3) Upon the completion of such tax extension, it **(shall be)** is the duty of the county assessor to make in each assessment book, tax roll or list a certificate in the following form:

I, ......., assessor of ....... county, state of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of ....... for the year ((one)) two thousand ((nine hundred and)) .......

Witness my hand this .... day of ...., ((19)) 20...

............., County Assessor

(4) The county assessor **(shall)** must deliver **(said)** the tax rolls to the county treasurer, on or before the fifteenth day of January, taking a receipt **(therefor, and)** from the treasurer. At the same time, the county assessor **(shall)** must provide the county auditor with an abstract of the tax rolls showing the total amount of taxes collectible in each of the taxing districts.

NEW SECTION. Sec. 315. RCW 84.55.080 (Adjustment to tax limitation) and 2006 c 184 s 5 & 1982 1st ex.s. c 42 s 12 are each repealed.
Sec. 401. 2009 c 461 s 9 (uncodified) is amended to read as follows:

(1) (a) Section 206, chapter ...., Laws of 2010 (section 206 of this act), section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(b) For the purposes of this section:

(i) "Commercial operation" means the same as "commencement of commercial production" as used in RCW 82.08.965.

(ii) "Semiconductor microchip fabrication" means "manufacturing semiconductor microchips" as defined in RCW 82.04.426.

(iii) "Significant" means the combined investment of new buildings and new machinery and equipment in the buildings, at the commencement of commercial production, will be at least one billion dollars.

(2) Chapter 149, Laws of 2003 takes effect the first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed, as determined by the director of the department of revenue.

(3) (a) The department of revenue must provide notice of the effective date of this act to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and chapter 149, Laws of 2003 is effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under section 2 or 5 through 10 , chapter 149, Laws of 2003. The department is not authorized to make a second determination regarding the effective date of chapter 149, Laws of 2003.
NEW SECTION. Sec. 402. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 403. Sections 104(3) (a)(i) and (s) and 111 of this act apply to return or tax information in respect to the tax imposed under chapter 83.100 RCW in the possession of the department of revenue on or after the effective date of this section.

NEW SECTION. Sec. 404. Sections 234 and 235 of this act apply both retroactively and prospectively to estates of decedents dying on or after May 17, 2005.

NEW SECTION. Sec. 405. Section 305(2) of this act applies both prospectively and retroactively beginning with taxes levied for collection in 2002 and thereafter.

NEW SECTION. Sec. 406. 2010 c . . . s 401 (section 401 of this act), 2009 c 461 s 9, 2006 c 300 s 12, and 2003 c 149 s 12 (uncodified) are codified as a section within chapter 82.32 RCW.

NEW SECTION. Sec. 407. Except as otherwise provided in sections 401, 409, and 412 of this act, this act takes effect July 1, 2010.

NEW SECTION. Sec. 408. Section 211 of this act expires January 1, 2011.

NEW SECTION. Sec. 409. Section 212 of this act takes effect January 1, 2011.

NEW SECTION. Sec. 410. Section 224 of this act expires June 30, 2013.

NEW SECTION. Sec. 411. Section 235 of this act expires January 1, 2014.
NEW SECTION. Sec. 412. Section 236 of this act takes effect January 1, 2014.

NEW SECTION. Sec. 413. If section 206 of this act takes effect, section 205 of this act expires on the date section 206 of this act takes effect.

Passed by the House February 16, 2010.
Passed by the Senate March 9, 2010.
Approved by the Governor March 18, 2010.
Filed in Office of Secretary of State March 18, 2010.