
SUBSTITUTE HOUSE BILL 2080

State of Washington

62nd Legislature

2011 1st Special Session

By House Ways & Means (originally sponsored by Representatives Hasegawa and Moscoso)

READ FIRST TIME 05/21/11.

1 AN ACT Relating to modifying tax refund and interest provisions;
2 amending RCW 82.32.050, 84.56.440, 35.102.080, and 74.60.050; and
3 creating a new section.

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

5 **Sec. 1.** RCW 82.32.050 and 2008 c 181 s 501 are each amended to
6 read as follows:

7 (1) If upon examination of any returns or from other information
8 obtained by the department it appears that a tax or penalty has been
9 paid less than that properly due, the department ((shall)) must assess
10 against the taxpayer such additional amount found to be due and
11 ((shall)) must add thereto interest on the tax only. The department
12 ((shall)) must notify the taxpayer by mail, or electronically as
13 provided in RCW 82.32.135, of the additional amount and the additional
14 amount ((shall)) becomes due and ((shall)) must be paid within thirty
15 days from the date of the notice, or within such further time as the
16 department may provide.

17 (a) For tax liabilities arising before January 1, 1992, interest
18 ((shall be)) is computed at the rate of nine percent per annum from the
19 last day of the year in which the deficiency is incurred until the

1 earlier of December 31, 1998, or the date of payment. After December
2 31, 1998, the rate of interest ((~~shall be~~) is variable and computed as
3 provided in subsection (2) of this section. The rate so computed
4 ((~~shall~~) must be adjusted on the first day of January of each year for
5 use in computing interest for that calendar year.

6 (b) For tax liabilities arising after December 31, 1991, the rate
7 of interest ((~~shall be~~) is variable and computed as provided in
8 subsection (2) of this section from the last day of the year in which
9 the deficiency is incurred until the date of payment. The rate so
10 computed ((~~shall~~) must be adjusted on the first day of January of each
11 year for use in computing interest for that calendar year.

12 (c) Interest imposed after December 31, 1998, ((~~shall be~~) is
13 computed from the last day of the month following each calendar year
14 included in a notice, and the last day of the month following the final
15 month included in a notice if not the end of a calendar year, until the
16 due date of the notice. If payment in full is not made by the due date
17 of the notice, additional interest ((~~shall be~~) is computed until the
18 date of payment. The rate of interest ((~~shall be~~) is variable and
19 computed as provided in subsection (2) of this section. The rate so
20 computed ((~~shall~~) must be adjusted on the first day of January of each
21 year for use in computing interest for that calendar year.

22 (2)(a) For the purposes of this section, the rate of interest to be
23 charged to the taxpayer ((~~shall be~~):

24 (i) For tax liabilities arising before January 1, 2012, is an
25 average of the federal short-term rate as defined in 26 U.S.C. Sec.
26 1274(d) plus two percentage points; and

27 (ii) For tax liabilities arising after December 31, 2011, is an
28 average of the bank prime loan rate, as published by the federal
29 reserve board in the H.15 report, plus three percentage points. This
30 subsection (2)(a)(ii) also applies to interest imposed beginning
31 January 1, 2012, for tax liabilities arising before that date and
32 included in any notice that is not paid in full by the due date of the
33 notice.

34 (b) The rate set for each new year ((~~shall be~~) is computed by
35 taking an arithmetical average to the nearest percentage point of the
36 ((~~federal short-term~~)) rate, compounded annually. ((That)) The average
37 ((~~shall be~~) is calculated using the rates from four months: January,

1 April, and July of the calendar year immediately preceding the new
2 year, and October of the previous preceding year.

3 (3) During a state of emergency declared under RCW 43.06.010(12),
4 the department, on its own motion or at the request of any taxpayer
5 affected by the emergency, may extend the due date of any assessment or
6 correction of an assessment for additional taxes, penalties, or
7 interest as the department deems proper.

8 (4) No assessment or correction of an assessment for additional
9 taxes, penalties, or interest due may be made by the department more
10 than four years after the close of the tax year, except (a) against a
11 taxpayer who has not registered as required by this chapter, (b) upon
12 a showing of fraud or of misrepresentation of a material fact by the
13 taxpayer, or (c) where a taxpayer has executed a written waiver of such
14 limitation. The execution of a written waiver ((shall)) also extends
15 the period for making a refund or credit as provided in RCW
16 82.32.060(2).

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

21 **Sec. 2.** RCW 84.56.440 and 2008 c 181 s 511 are each amended to
22 read as follows:

23 (1)(a) The department of revenue ((shall)) must collect all ad
24 valorem taxes upon ships and vessels listed with the department in
25 accordance with RCW 84.40.065 and all applicable interest and
26 penalties.

27 (b) The taxes ((shall be)) are due and payable to the department on
28 or before the thirtieth day of April and ((shall be)) are delinquent
29 after that date.

30 (2) If payment of the tax is not received by the department by the
31 due date, there ((shall be)) is imposed a penalty of five percent of
32 the amount of the tax; and if the tax is not received within thirty
33 days after the due date, there ((shall be)) is imposed a total penalty
34 of ten percent of the amount of the tax; and if the tax is not received
35 within sixty days after the due date, there ((shall be)) is imposed a
36 total penalty of twenty percent of the amount of the tax. No penalty
37 so added ((shall)) may be less than five dollars.

1 (3) Delinquent taxes under this section are subject to interest at
2 the rate set forth in RCW 82.32.050 from the date of delinquency until
3 paid. Interest or penalties collected on delinquent taxes under this
4 section ~~((shall))~~ must be paid by the department into the general fund
5 of the state treasury.

6 (4) If upon information obtained by the department it appears that
7 any ship or vessel required to be listed according to the provisions of
8 RCW 84.40.065 is not so listed, the department ~~((shall))~~ must value the
9 ship or vessel and assess against the owner of the vessel the taxes
10 found to be due and ~~((shall))~~ must add thereto interest at the rate set
11 forth in RCW 82.32.050 from the original due date of the tax until the
12 date of payment. The department ~~((shall))~~ must notify the vessel owner
13 by mail of the amount and the same ~~((shall))~~ becomes due and ~~((shall))~~
14 must be paid by the vessel owner within thirty days of the date of the
15 notice. If payment is not received by the department by the due date
16 specified in the notice, the department ~~((shall))~~ must add a penalty of
17 ten percent of the tax found due. A person who willfully gives a false
18 listing or willfully fails to list a ship or vessel as required by RCW
19 84.40.065 ~~((shall-be))~~ is subject to the penalty imposed by RCW
20 84.40.130(2), which ~~((shall))~~ must be assessed and collected by the
21 department.

22 (5) Delinquent taxes under this section, along with all penalties
23 and interest thereon, ~~((shall))~~ must be collected by the department
24 according to the procedures set forth in chapter 82.32 RCW for the
25 filing and execution of tax warrants, including the imposition of
26 warrant interest. In the event a warrant is issued by the department
27 for the collection of taxes under this section, the department
28 ~~((shall))~~ must add a penalty of five percent of the amount of the
29 delinquent tax, but not less than ten dollars.

30 (6) The department ~~((shall))~~ must also collect all delinquent taxes
31 pertaining to ships and vessels appearing on the records of the county
32 treasurers for each of the counties of this state as of December 31,
33 1993, including any applicable interest or penalties. The provisions
34 of subsection (5) of this section ~~((shall))~~ apply to the collection of
35 such delinquent taxes.

36 (7) During a state of emergency declared under RCW 43.06.010(12),
37 the department, on its own motion or at the request of any taxpayer

1 affected by the emergency, may grant extensions of the due date of any
2 taxes payable under this section as the department deems proper.

3 (8)(a) If, upon receipt of an application by a vessel owner for a
4 refund, or upon examination of any information obtained by the
5 department, the department determines that the vessel owner has
6 overpaid the tax due under this section, the department must refund the
7 amount of the overpayment, together with interest as provided in (b) of
8 this subsection (8).

9 (b) Interest on refunds must be allowed at the rate provided in RCW
10 82.32.050(2). The rate so computed must be adjusted on the first day
11 of January of each year for use in computing interest for that calendar
12 year. Interest must be refunded from the date of overpayment until the
13 date the refund is mailed. No refund may be made by the department
14 more than four years prior to the beginning of the calendar year in
15 which the refund application is made or the department's examination of
16 information is complete.

17 **Sec. 3.** RCW 35.102.080 and 2003 c 79 s 8 are each amended to read
18 as follows:

19 (1) A city that imposes a business and occupation tax ((shall))
20 must compute interest charged a taxpayer on an underpaid tax or penalty
21 in accordance with RCW 82.32.050, as that statute existed on January 1,
22 2011.

23 (2) A city that imposes a business and occupation tax ((shall))
24 must compute interest paid on refunds or credits of amounts paid or
25 other recovery allowed a taxpayer in accordance with RCW 82.32.060;
26 except, the interest rate must be computed in the manner provided under
27 RCW 82.32.050, as that statute existed on January 1, 2011.

28 **Sec. 4.** RCW 74.60.050 and 2010 1st sp.s. c 30 s 6 are each amended
29 to read as follows:

30 (1) The department, in cooperation with the office of financial
31 management, ((shall)) must develop rules for determining the amount to
32 be assessed to individual hospitals, notifying individual hospitals of
33 the assessed amount, and collecting the amounts due. Such rule making
34 ((shall)) must specifically include provision for:

35 (a) Transmittal of quarterly notices of assessment by the
36 department to each hospital informing the hospital of its nonmedicare

1 hospital inpatient days and the assessment amount due and payable.
2 Such quarterly notices ((shall)) must be sent to each hospital at least
3 thirty calendar days prior to the due date for the quarterly assessment
4 payment.

5 (b) Interest on delinquent assessments at the rate specified in RCW
6 82.32.050, as that statute existed on January 1, 2011.

7 (c) Adjustment of the assessment amounts as follows:

8 (i) For each fiscal year beginning July 1, 2010, the assessment
9 amounts under RCW 74.60.030 (1) and (3) may be adjusted as follows:

10 (A) If sufficient other funds for hospitals, excluding any
11 extension of section 5001 of P.L. No. 111-5, are available to support
12 the reimbursement rates and other payments under RCW 74.60.080,
13 74.60.090, 74.60.100, 74.60.110, or 74.60.120 without utilizing the
14 full assessment authorized under RCW 74.60.030 (1) or (3), the
15 department shall reduce the amount of the assessment for prospective
16 payment system, psychiatric, and rehabilitation hospitals
17 proportionately to the minimum level necessary to support those
18 reimbursement rates and other payments.

19 (B) Provided that none of the conditions set forth in RCW
20 74.60.150(2) have occurred, if the department's forecasts indicate that
21 the assessment amounts under RCW 74.60.030 (1) and (3), together with
22 all other available funds, are not sufficient to support the
23 reimbursement rates and other payments under RCW 74.60.080, 74.60.090,
24 74.60.100, 74.60.110, or 74.60.120, the department ((shall)) must
25 increase the assessment rates for prospective payment system,
26 psychiatric, and rehabilitation hospitals proportionately to the amount
27 necessary to support those reimbursement rates and other payments, plus
28 a contingency factor up to ten percent of the total assessment amount.

29 (C) Any positive balance remaining in the fund at the end of the
30 fiscal year ((shall)) must be applied to reduce the assessment amount
31 for the subsequent fiscal year.

32 (ii) Any adjustment to the assessment amounts pursuant to this
33 subsection, and the data supporting such adjustment, including but not
34 limited to relevant data listed in subsection (2) of this section, must
35 be submitted to the Washington state hospital association for review
36 and comment at least sixty calendar days prior to implementation of
37 such adjusted assessment amounts. Any review and comment provided by
38 the Washington state hospital association ((shall)) may not limit the

ability of the Washington state hospital association or its members to challenge an adjustment or other action by the department that is not made in accordance with this chapter.

(2) By November 30th of each year, the department ((shall)) must provide the following data to the Washington state hospital association:

(a) The fund balance;

(b) The amount of assessment paid by each hospital;

(c) The annual medicaid fee-for-service payments for inpatient hospital services and outpatient hospital services; and

(d) The medicaid healthy options inpatient and outpatient payments as reported by all hospitals to the department on disproportionate share hospital applications. The department ((shall)) must amend the disproportionate share hospital application and reporting instructions as needed to ensure that the foregoing data is reported by all hospitals as needed in order to comply with this subsection (2)(d).

(3) The department ((shall)) must determine the number of nonmedicare hospital inpatient days for each hospital for each assessment period.

(4) To the extent necessary, the department ((shall)) must amend the contracts between the managed care organizations and the department and between regional support networks and the department to incorporate the provisions of RCW 74.60.120. The department ((shall)) must pursue amendments to the contracts as soon as possible after April 27, 2010. The amendments to the contracts ((shall)) must, among other provisions, provide for increased payment rates to managed care organizations in accordance with RCW 74.60.120.

NEW SECTION. **Sec. 5.** This act applies only to interest imposed or allowed after December 31, 2011, regardless of whether the interest relates to tax liabilities incurred or overpayments made on or before that date.

NEW SECTION. **Sec. 6.** 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

1 persons or circumstances is not affected.

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