
SUBSTITUTE SENATE BILL 5358

State of Washington

65th Legislature

2017 Regular Session

By Senate Ways & Means (originally sponsored by Senators Schoesler and Ranker)

READ FIRST TIME 02/10/17.

1 AN ACT Relating to improving tax and licensing laws administered
2 by the department of revenue, but not including changes to tax laws
3 that are estimated to affect state or local tax collections as
4 reflected in any fiscal note prepared and approved under the process
5 established in chapter 43.88A RCW; amending RCW 54.28.040, 54.28.050,
6 54.28.055, 82.32.105, 82.32.350, 82.04.040, 82.04.190, 82.04.050,
7 82.32.670, 82.32.534, 82.32.585, 82.04.261, 82.04.334, 82.04.43391,
8 82.32.030, 84.41.041, 35.102.130, 82.04.060, 82.04.190, 82.04.192,
9 82.04.257, 82.04.258, 82.08.02082, 82.08.02088, 82.12.010, 82.12.020,
10 82.12.02082, 82.12.02088, 82.12.0259, 82.12.035, 82.12.040,
11 82.12.860, 82.14.457, 82.04.4277, 84.12.270, 84.12.330, 84.16.040,
12 84.16.090, 83.100.050, 19.02.115, 82.01.060, and 84.33.089; amending
13 2015 3rd sp.s. c 30 s 1, and 2015 3rd sp.s. c 6 ss 2301, 2303, and
14 801 (uncodified); reenacting and amending RCW 84.34.108 and
15 82.32.790; reenacting RCW 82.04.280; adding a new section to chapter
16 54.28 RCW; adding a new section to chapter 84.08 RCW; repealing RCW
17 54.28.030 and 82.04.4483; repealing 2010 c 106 s 206, 2009 c 461 s 3,
18 2006 c 300 s 7, and 2003 c 149 s 4; creating new sections; and
19 providing effective dates.

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

1 **Providing reasonable tools for the effective administration of the**
2 **public utility district privilege tax**

3 NEW SECTION. **Sec. 101.** A new section is added to chapter 54.28
4 RCW to read as follows:

5 (1) The following provisions of chapter 82.32 RCW apply with
6 respect to the state taxes administered by the department of revenue
7 under this chapter, unless the context clearly requires otherwise:
8 RCW 82.32.050, 82.32.060, 82.32.070, 82.32.080, 82.32.085, 82.32.090,
9 82.32.100, 82.32.105, 82.32.110, 82.32.117, 82.32.120, 82.32.130,
10 82.32.135, 82.32.150, 82.32.160, 82.32.170, 82.32.180, 82.32.190,
11 82.32.200, 82.32.210, 82.32.235, 82.32.237, 82.32.240, 82.32.270,
12 82.32.310, 82.32.320, 82.32.330, 82.32.340, 82.32.350, 82.32.360,
13 82.32.410, and any other provision of chapter 82.32 RCW specifically
14 referenced in the statutes listed in this subsection (1).

15 (2) Chapter 82.32 RCW also applies with respect to the state
16 taxes administered by the department of revenue under this chapter to
17 the extent provided in any other provision of law.

18 (3) The definitions in this chapter have full force and
19 application with respect to the application of chapter 82.32 RCW to
20 this chapter unless the context clearly requires otherwise.

21 NEW SECTION. **Sec. 102.** RCW 54.28.030 (Districts' report to
22 department of revenue) and 1977 ex.s. c 366 s 3, 1975 1st ex.s. c 278
23 s 30, 1959 c 274 s 3, & 1957 c 278 s 3 are each repealed.

24 **Sec. 103.** RCW 54.28.040 and 1996 c 149 s 16 are each amended to
25 read as follows:

26 (1) Before May 1st of each calendar year through calendar year
27 2018, the department of revenue ((shall)) must compute the tax
28 imposed by this chapter for the last preceding calendar year and
29 notify the district of the amount thereof, which shall be payable on
30 or before the following June 1st.

31 (2) ~~((If payment of any tax is not received by the department on~~
32 ~~or before the due date, there shall be assessed a penalty of five~~
33 ~~percent of the amount of the tax; if the tax is not received within~~
34 ~~one month of the due date, there shall be assessed a total penalty of~~
35 ~~ten percent of the amount of the tax; and if the tax is not received~~
36 ~~within two months of the due date, there shall be assessed a total~~
37 ~~penalty of twenty percent of the amount of the tax.~~

1 ~~(3)~~) For tax reporting periods beginning on or after January 1,
2 2018, taxpayers must report the taxes due under RCW 54.28.020 and
3 54.28.025 on returns as prescribed by the department of revenue.
4 Except as otherwise provided in this subsection (2), taxes imposed in
5 RCW 54.28.020 and 54.28.025 are due for a taxpayer at the same time
6 as the taxpayer's payment of taxes imposed under chapters 82.04 and
7 82.16 RCW. The department of revenue may allow taxpayers to report
8 and pay the taxes due under RCW 54.28.020 and 54.28.025 on an annual
9 basis, even if they report taxes imposed under chapters 82.04 and
10 82.16 RCW more frequently than annually. In such cases, the taxes
11 imposed in RCW 54.28.020 and 54.28.025 are due at the same time as
12 the taxes under chapters 82.04 and 82.16 RCW for the taxpayer's final
13 reporting period for the calendar year.

14 (3) The department of revenue may require persons to report such
15 information as needed by the department to administer this chapter.

16 (4) Upon receipt of the amount of each tax imposed the department
17 of revenue shall deposit the same with the state treasurer, who
18 (~~shall~~) must deposit four percent of the revenues received under
19 RCW 54.28.020(1) and 54.28.025(1) and all revenues received under RCW
20 54.28.020(2) and 54.28.025(2) in the general fund of the state and
21 (~~shall~~) must distribute the remainder in the manner hereinafter set
22 forth. The state treasurer (~~shall~~) must send a duplicate copy of
23 each transmittal to the department of revenue.

24 **Sec. 104.** RCW 54.28.050 and 1982 1st ex.s. c 35 s 21 are each
25 amended to read as follows:

26 ~~((After computing the tax imposed by RCW 54.28.020(1),))~~ (1)
27 Except as provided in subsection (2) of this section, the department
28 of revenue (~~shall~~) must instruct the state treasurer, after placing
29 thirty-seven and six-tenths percent of the taxes collected under RCW
30 54.28.020(1) in the state general fund to be dedicated for the
31 benefit of the public schools, to distribute the balance collected
32 under RCW 54.28.020(1)(a) to each county in proportion to the gross
33 revenue from sales made within each county; and to distribute the
34 balance collected under RCW 54.28.020(1) (b) and (c) as follows:

35 (a) If the entire generating facility, including reservoir, if
36 any, is in a single county then all of the balance to the county
37 where such generating facility is located(~~(-)~~);

38 (b) If any reservoir is in more than one county, then to each
39 county in which the reservoir or any portion thereof is located a

1 percentage equal to the percentage determined by dividing the total
2 cost of the generating facilities, including adjacent switching
3 facilities, into twice the cost of land and land rights acquired for
4 any reservoir within each county, land and land rights to be defined
5 the same as used by the federal (~~power commission~~) energy
6 regulatory commission.

7 (c) If the powerhouse and dam, if any, in connection with such
8 reservoir are in more than one county, the balance (~~shall~~) must be
9 divided sixty percent to the county in which the owning district is
10 located and forty percent to the other county or counties or if
11 (~~said~~) the powerhouse and dam, if any, are owned by a joint
12 operating agency organized under chapter 43.52 RCW, or by more than
13 one district or are outside the county of the owning district, then
14 to be divided equally between the counties in which such facilities
15 are located. If all of the powerhouse and dam, if any, are in one
16 county, then the balance (~~shall~~) must be distributed to the county
17 in which the facilities are located.

18 (2) The department of revenue must instruct the state treasurer
19 to adjust distributions under this section, in whole or in part, to
20 account for each county's proportionate share of amounts previously
21 distributed under this section and subsequently refunded to a public
22 utility district under RCW 82.32.060.

23 (3) The provisions of this section (~~shall~~) do not apply to the
24 distribution of taxes collected under RCW 54.28.025.

25 **Sec. 105.** RCW 54.28.055 and 1986 c 189 s 1 are each amended to
26 read as follows:

27 (1) (~~After computing the tax imposed by RCW 54.28.025(1)~~)
28 Except as provided in subsection (3) of this section, the department
29 of revenue (~~shall~~) must instruct the state treasurer to distribute
30 the amount collected under RCW 54.28.025(1) as follows:

31 (a) Fifty percent to the state general fund for the support of
32 schools; and

33 (b) Twenty-two percent to the counties, twenty-three percent to
34 the cities, three percent to the fire protection districts, and two
35 percent to the library districts.

36 (2) Each county, city, fire protection district, and library
37 district (~~shall~~) must receive a percentage of the amount for
38 distribution to counties, cities, fire protection districts, and
39 library districts, respectively, in the proportion that the

1 population of such district residing within the impacted area bears
2 to the total population of all such districts residing within the
3 impacted area. For the purposes of this chapter, the term "library
4 district" includes only regional libraries (~~as defined in RCW~~
5 ~~27.12.010(4)~~), rural county library districts (~~as defined in RCW~~
6 ~~27.12.010(5)~~), intercounty rural library districts (~~as defined in~~
7 ~~RCW 27.12.010(6)~~), and island library districts as those terms are
8 defined in RCW 27.12.010(~~(7)~~). The population of a library
9 district, for purposes of such a distribution, (~~shall~~) does not
10 include any population within the library district and the impact
11 area that also is located within a city or town.

12 (3) Distributions under this section must be adjusted as follows:

13 (a) If any distribution pursuant to subsection (1)(b) of this
14 section cannot be made, then that share (~~shall~~) must be prorated
15 among the state and remaining local districts.

16 (b) The department of revenue must instruct the state treasurer
17 to adjust distributions under this section, in whole or in part, to
18 account for each county's, city's, fire protection district's, and
19 library district's proportionate share of amounts previously
20 distributed under this section and subsequently refunded to a public
21 utility district under RCW 82.32.060.

22 (4) All distributions directed by this section to be made on the
23 basis of population (~~shall~~) must be calculated in accordance with
24 (~~data to be provided~~) population data as last determined by the
25 office of financial management.

26 **Sec. 106.** RCW 82.32.105 and 1998 c 304 s 13 are each amended to
27 read as follows:

28 (1) If the department (~~of revenue~~) finds that the payment by a
29 taxpayer of a tax less than that properly due or the failure of a
30 taxpayer to pay any tax by the due date was the result of
31 circumstances beyond the control of the taxpayer, the department (~~of~~
32 ~~revenue shall~~) must waive or cancel any penalties imposed under this
33 chapter with respect to such tax.

34 (2) The department (~~shall~~) must waive or cancel the penalty
35 imposed under RCW 82.32.090(1) when the circumstances under which the
36 delinquency occurred do not qualify for waiver or cancellation under
37 subsection (1) of this section if:

1 (a) The taxpayer requests the waiver for a tax return required to
2 be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020,
3 82.27.060, 82.29A.050, or 84.33.086; and

4 (b) The taxpayer has timely filed and remitted payment on all tax
5 returns due for that tax program for a period of twenty-four months
6 immediately preceding the period covered by the return for which the
7 waiver is being requested.

8 (3) The department (~~shall~~) must waive or cancel interest
9 imposed under this chapter if:

10 (a) The failure to timely pay the tax was the direct result of
11 written instructions given the taxpayer by the department; or

12 (b) The extension of a due date for payment of an assessment of
13 deficiency was not at the request of the taxpayer and was for the
14 sole convenience of the department.

15 (4) The department (~~of revenue shall~~) must adopt rules for the
16 waiver or cancellation of penalties and interest imposed by this
17 chapter.

18 **Sec. 107.** RCW 82.32.350 and 1971 ex.s. c 299 s 23 are each
19 amended to read as follows:

20 The department may enter into an agreement in writing with any
21 person relating to the liability of such person in respect of any tax
22 imposed by any of the preceding chapters of this title, or any tax in
23 respect to which this section is specifically made applicable, for
24 any taxable period or periods.

25 NEW SECTION. **Sec. 108.** Section 102 of this act does not apply
26 with respect to reports due under RCW 54.28.030 in calendar year 2018
27 or any preceding calendar year.

28 NEW SECTION. **Sec. 109.** The repeal in section 102 of this act
29 and the amendments in section 103 of this act do not affect any
30 existing right acquired or liability or obligation incurred under the
31 sections repealed or amended or under any rule or order adopted under
32 those sections, nor does it affect any proceeding instituted under
33 those sections.

34 **Part II**
35 **Pet adoption fees**

1 **Sec. 201.** RCW 82.04.040 and 2004 c 153 s 402 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in this subsection, "sale" means
4 any transfer of the ownership of, title to, or possession of property
5 for a valuable consideration and includes any activity classified as
6 a "sale at retail" or "retail sale" under RCW 82.04.050. It includes
7 lease or rental, conditional sale contracts, and any contract under
8 which possession of the property is given to the purchaser but title
9 is retained by the vendor as security for the payment of the purchase
10 price. It also includes the furnishing of food, drink, or meals for
11 compensation whether consumed upon the premises or not. The term
12 "sale" does not include the transfer of the ownership of, title to,
13 or possession of an animal by an animal rescue organization in
14 exchange for the payment of an adoption fee.

15 (2) "Casual or isolated sale" means a sale made by a person who
16 is not engaged in the business of selling the type of property
17 involved.

18 (3)(a) "Lease or rental" means any transfer of possession or
19 control of tangible personal property for a fixed or indeterminate
20 term for consideration. A lease or rental may include future options
21 to purchase or extend. "Lease or rental" includes agreements covering
22 motor vehicles and trailers where the amount of consideration may be
23 increased or decreased by reference to the amount realized upon sale
24 or disposition of the property as defined in 26 U.S.C. Sec.
25 7701(h)(1), as amended or renumbered as of January 1, 2003. The
26 definition in this subsection (3) (~~shall~~) must be used for sales
27 and use tax purposes regardless if a transaction is characterized as
28 a lease or rental under generally accepted accounting principles, the
29 United States internal revenue code, Washington state's commercial
30 code, or other provisions of federal, state, or local law.

31 (b) "Lease or rental" does not include:

32 (i) A transfer of possession or control of property under a
33 security agreement or deferred payment plan that requires the
34 transfer of title upon completion of the required payments;

35 (ii) A transfer of possession or control of property under an
36 agreement that requires the transfer of title upon completion of
37 required payments, and payment of an option price does not exceed the
38 greater of one hundred dollars or one percent of the total required
39 payments; or

1 (iii) Providing tangible personal property along with an operator
2 for a fixed or indeterminate period of time. A condition of this
3 exclusion is that the operator is necessary for the tangible personal
4 property to perform as designed. For the purpose of this subsection
5 (3)(b)(iii), an operator must do more than maintain, inspect, or set
6 up the tangible personal property.

7 (4)(a) "Adoption fee" means an amount charged by an animal rescue
8 organization to adopt an animal, except that "adoption fee" does not
9 include any separately itemized charge for any incidental inanimate
10 items provided to persons adopting an animal, including food,
11 identification tags, collars, and leashes.

12 (b) "Animal care and control agency" means the same as in RCW
13 16.52.011 and also includes any similar entity operating outside of
14 this state.

15 (c) "Animal rescue group" means a nonprofit organization that:

16 (i)(A) Is exempt from federal income taxation under 26 U.S.C.
17 Sec. 501(c) of the federal internal revenue code as it exists on the
18 effective date of this section; or

19 (B) Is registered as a charity with the Washington secretary of
20 state under chapter 19.09 RCW, whether such registration is required
21 by law or voluntary;

22 (ii) Has as its primary purpose the prevention of abuse, neglect,
23 cruelty, exploitation, or homelessness of animals; and

24 (iii) Exclusively obtains dogs, cats, or other animals for
25 placement that are:

26 (A) Stray or abandoned;

27 (B) Surrendered or relinquished by animal owners or caretakers;

28 (C) Transferred from other animal rescue organizations; or

29 (D) Born in the care of such nonprofit organization other than
30 through intentional breeding by the nonprofit organization.

31 (d) "Animal rescue organization" means an animal care and control
32 agency or an animal rescue group.

33 **Sec. 202.** RCW 82.04.190 and 2015 c 169 s 3 are each amended to
34 read as follows:

35 "Consumer" means the following:

36 (1) Except as provided otherwise in this section, any person who
37 purchases, acquires, owns, holds, or uses any article of tangible
38 personal property irrespective of the nature of the person's business
39 and including, among others, without limiting the scope hereof,

1 persons who install, repair, clean, alter, improve, construct, or
2 decorate real or personal property of or for consumers other than for
3 the purpose of:

4 (a) Resale as tangible personal property in the regular course of
5 business;

6 (b) Incorporating such property as an ingredient or component of
7 real or personal property when installing, repairing, cleaning,
8 altering, imprinting, improving, constructing, or decorating such
9 real or personal property of or for consumers;

10 (c) Consuming such property in producing for sale as a new
11 article of tangible personal property or a new substance, of which
12 such property becomes an ingredient or component or as a chemical
13 used in processing, when the primary purpose of such chemical is to
14 create a chemical reaction directly through contact with an
15 ingredient of a new article being produced for sale;

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

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

25 (2)(a) Any person engaged in any business activity taxable under
26 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires,
27 or uses any competitive telephone service, ancillary services, or
28 telecommunications service as those terms are defined in RCW
29 82.04.065, other than for resale in the regular course of business;
30 (c) any person who purchases, acquires, or uses any service defined
31 in RCW 82.04.050(2) (a) or (g), other than for resale in the regular
32 course of business or for the purpose of satisfying the person's
33 obligations under an extended warranty as defined in RCW
34 82.04.050(7); (d) any person who makes a purchase meeting the
35 definition of "sale at retail" and "retail sale" under RCW
36 82.04.050(15), other than for resale in the regular course of
37 business; (e) any person who purchases or acquires an extended
38 warranty as defined in RCW 82.04.050(7) other than for resale in the
39 regular course of business; and (f) any person who is an end user of
40 software. For purposes of this subsection (2)(f) and RCW

1 82.04.050(6), a person who purchases or otherwise acquires prewritten
2 computer software, who provides services described in RCW
3 82.04.050(6)((~~b~~)) (c) and who will charge consumers for the right
4 to access and use the prewritten computer software, is not an end
5 user of the prewritten computer software;

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

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

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

38 (6) Any person engaged in the business of constructing,
39 repairing, decorating, or improving new or existing buildings or
40 other structures under, upon, or above real property of or for the

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

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

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

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

36 (10) Any person who purchases, acquires, or uses services
37 described in RCW 82.04.050(6)((~~b~~)) (c) other than:

38 (a) For resale in the regular course of business; or

39 (b) For purposes of consuming the service described in RCW
40 82.04.050(6)((~~b~~)) (c) in producing for sale a new product, but only

1 if such service becomes a component of the new product. For purposes
2 of this subsection (10), "product" means a digital product, an
3 article of tangible personal property, or the service described in
4 RCW 82.04.050(6)(~~(b)~~) (c);

5 (11)(a) Any end user of a digital product or digital code.
6 "Consumer" does not include any person who is not an end user of a
7 digital product or a digital code and purchases, acquires, owns,
8 holds, or uses any digital product or digital code for purposes of
9 consuming the digital product or digital code in producing for sale a
10 new product, but only if the digital product or digital code becomes
11 a component of the new product. A digital code becomes a component of
12 a new product if the digital good or digital automated service
13 acquired through the use of the digital code becomes incorporated
14 into a new product. For purposes of this subsection, "product" has
15 the same meaning as in subsection (10) of this section.

16 (b)(i) For purposes of this subsection, "end user" means any
17 taxpayer as defined in RCW 82.12.010 other than a taxpayer who
18 receives by contract a digital product for further commercial
19 broadcast, rebroadcast, transmission, retransmission, licensing,
20 relicensing, distribution, redistribution or exhibition of the
21 product, in whole or in part, to others. A person that purchases
22 digital products or digital codes for the purpose of giving away such
23 products or codes will not be considered to have engaged in the
24 distribution or redistribution of such products or codes and will be
25 treated as an end user;

26 (ii) If a purchaser of a digital code does not receive the
27 contractual right to further redistribute, after the digital code is
28 redeemed, the underlying digital product to which the digital code
29 relates, then the purchaser of the digital code is an end user. If
30 the purchaser of the digital code receives the contractual right to
31 further redistribute, after the digital code is redeemed, the
32 underlying digital product to which the digital code relates, then
33 the purchaser of the digital code is not an end user. A purchaser of
34 a digital code who has the contractual right to further redistribute
35 the digital code is an end user if that purchaser does not have the
36 right to further redistribute, after the digital code is redeemed,
37 the underlying digital product to which the digital code relates;

38 (12) Any person who provides services described in RCW
39 82.04.050(9). Any such person is a consumer with respect to the
40 purchase, acquisition, or use of the tangible personal property that

1 the person provides along with an operator in rendering services
2 defined as a retail sale in RCW 82.04.050(9). Any such person may
3 also be a consumer under other provisions of this section;

4 (13) Any person who purchases, acquires, owns, holds, or uses
5 chemical sprays or washes for the purpose of postharvest treatment of
6 fruit for the prevention of scald, fungus, mold, or decay, or who
7 purchases feed, seed, seedlings, fertilizer, agents for enhanced
8 pollination including insects such as bees, and spray materials, is
9 not a consumer of such items, but only to the extent that the items:

10 (a) Are used in relation to the person's participation in the
11 federal conservation reserve program, the environmental quality
12 incentives program, the wetlands reserve program, the wildlife
13 habitat incentives program, or their successors administered by the
14 United States department of agriculture;

15 (b) Are for use by a farmer for the purpose of producing for sale
16 any agricultural product; or

17 (c) Are for use by a farmer to produce or improve wildlife
18 habitat on land the farmer owns or leases while acting under
19 cooperative habitat development or access contracts with an
20 organization exempt from federal income tax under 26 U.S.C. Sec.
21 501(c)(3) of the federal internal revenue code or the Washington
22 state department of fish and wildlife; (~~and~~)

23 (14) A regional transit authority is not a consumer with respect
24 to labor, services, or tangible personal property purchased pursuant
25 to agreements providing maintenance services for bus, rail, or rail
26 fixed guideway equipment when a transit agency, as defined in RCW
27 81.104.015, performs the labor or services; and

28 (15) The term "consumer" does not include:

29 (a) An animal rescue organization with respect to animals under
30 its care and control; and

31 (b) Any person with respect to an animal adopted by that person
32 from an animal rescue organization.

33 NEW SECTION. Sec. 203. Sections 201 and 202 of this act apply
34 both prospectively and retroactively to July 1, 2015.

35 **Part III**

36 **Technical corrections and clarifications to 2015 legislation**

1 **Sec. 301.** 2015 3rd sp.s. c 6 s 2301 (uncodified) is amended to
2 read as follows:

3 (1) Except as provided otherwise in this (~~section~~) part, this
4 act is necessary for the immediate preservation of the public peace,
5 health, or safety, or support of the state government and its
6 existing public institutions, and takes effect July 1, 2015.

7 (2) Parts IV, VI, VIII, and XIX of this act are necessary for the
8 immediate preservation of the public peace, health, or safety, or
9 support of the state government and its existing public institutions,
10 and take effect September 1, 2015.

11 (3) Part X of this act takes effect October 1, 2016.

12 (4) Section 1105 of this act takes effect January 1, 2016.

13 (5) Except for section 2004 of this act, Part XX of this act
14 takes effect January 1, 2019.

15 (6) Section 2004 of this act takes effect January 1, 2022.

16 **Sec. 302.** 2015 3rd sp.s. c 6 s 2303 (uncodified) is amended to
17 read as follows:

18 (~~Part VIII of this act expires July 1, 2019~~) (1) Sections 802
19 and 804, chapter 6, Laws of 2015 3rd sp. sess. expire July 1, 2026;

20 (2) Section 803, chapter 6, Laws of 2015 3rd sp. sess. expires
21 January 1, 2026; and

22 (3) Section 805, chapter 6, Laws of 2015 3rd sp. sess. expires
23 January 1, 2031.

24 **Sec. 303.** 2015 3rd sp.s. c 6 s 801 (uncodified) is amended to
25 read as follows:

26 (1)(a) The legislature finds that a robust maritime industry is
27 crucial for the state's economic vitality. The legislature further
28 finds that:

29 (i) The joint task force for economic resilience of maritime and
30 manufacturing established policy goals to continue efforts towards
31 developing a robust maritime industry in the state;

32 (ii) The maritime industry has a direct and indirect impact on
33 jobs in the state;

34 (iii) Many of the cities and towns impacted by the maritime
35 industry are often small with limited resources to encourage economic
36 growth, heavily relying on the maritime industry for local jobs and
37 revenues in the community;

1 (iv) Keeping Washington competitive with other cruising
2 destinations is essential to continue to build a robust maritime
3 economy in the state; and

4 (v) Tax incentives are an imperative component to improve the
5 state's overall competitiveness in this sector.

6 (b) Therefore, the legislature intends to:

7 (i) Bolster the maritime industry in the state by incentivizing
8 larger vessel owners to use Washington waters for recreational
9 boating to increase economic activity and jobs in coastal communities
10 and inland water regions of the state;

11 (ii) Achieve this objective in a fiscally responsible manner and
12 require analysis of specific metrics to ensure valuable state
13 resources are being used to accomplish the intended goal; and

14 (iii) Provide limited, short-term tax relief to entity-owned
15 nonresident vessel owners that currently are not afforded the same
16 benefits as other nonresident vessel owners.

17 (2)(a) This subsection is the tax preference performance
18 statement for the entity-owned nonresident vessel tax preference
19 established in section 803 of this act. The performance statement is
20 only intended to be used for subsequent evaluation of the tax
21 preference. It is not intended to create a private right of action by
22 any party or be used to determine eligibility for preferential tax
23 treatment.

24 (b) The legislature categorizes this tax preference as one
25 intended to accomplish the purposes indicated in RCW 82.32.808(2)(c)
26 and one intended to improve the state's competitiveness with other
27 nearby cruising destinations.

28 (c) It is the legislature's specific public policy objective to
29 increase economic activity and jobs related to the maritime industry
30 by providing a tax preference for large entity-owned nonresident
31 vessels to increase the length of time these vessels cruise
32 Washington waters in turn strengthening the maritime economy in the
33 state.

34 (d) To measure the effectiveness of the tax preference provided
35 in part (~~(XII [VIII] of this act)~~) VIII, chapter 6, Laws of 2015 3rd
36 sp. sess. in achieving the public policy objective in (c) of this
37 subsection, the joint legislative audit and review committee must
38 provide the following in a published evaluation of this tax
39 preference by December 31, 2024:

1 (i) A comparison of the gross and taxable revenue generated by
2 businesses that sell or provide maintenance or repair of vessels,
3 prior to and after the enactment of this tax preference;

4 (ii) Analysis of retail sales taxes collected from the restaurant
5 and service industries in coastal and inlet coastal jurisdictions,
6 for both counties and cities, for periods prior to and after the
7 enactment of this tax preference;

8 (iii) Employment and wage trends for businesses described in
9 (d)(i) and (ii) of this subsection, for periods prior to and after
10 the enactment of this tax preference;

11 (iv) Descriptive statistics for the number of permits sold each
12 year in addition to the following information:

13 (A) The cost for each permit by strata of vessel length;

14 (B) The jurisdiction of ownership for the nonresident vessel; and

15 (C) The amount of use tax that would have been due based on the
16 estimated value of the vessel;

17 (v) A comparison of the number of registered entity-owned and
18 individually owned vessels registered in Washington prior to and
19 after the enactment of this tax preference; and

20 (vi) Data and analysis for Washington's main cruising destination
21 competitors, specifically looking at tax preferences provided in
22 those jurisdictions, vessel industry income data, and any additional
23 relevant information to compare Washington's maritime climate with
24 its competitors.

25 (e) The provision of RCW 82.32.808(5) does not apply to this tax
26 preference.

27 **Sec. 304.** 2015 3rd sp.s. c 30 s 1 (uncodified) is amended to
28 read as follows:

29 This section is the tax preference performance statement for the
30 tax preference contained in section 2 (~~of this act~~), chapter 30,
31 Laws of 2015 3rd sp. sess. This performance statement is only
32 intended to be used for subsequent evaluation of the tax preference.
33 It is not intended to create a private right of action by any party
34 or be used to determine eligibility for preferential tax treatment.

35 (1) The legislature categorizes this tax preference as one
36 intended to provide tax relief for certain businesses or individuals,
37 as indicated in RCW 82.32.808(2)(e).

38 (2) It is the legislature's specific public policy objective to
39 provide tax relief to senior citizens, disabled persons, and

1 veterans. The legislature recognizes that property taxes impose a
2 substantial financial burden on those with fixed incomes and that
3 property tax relief programs have considerable value in addressing
4 this burden. It is the legislature's intent to increase the current
5 statutory static income thresholds which were last modified in 2004.

6 (3) (~~The expansion of the items allowed to be deducted~~) This
7 tax preference is meant to be permanent and, therefore, not subject
8 to the ten-year expiration provision in RCW 82.32.805(1)(a).

9 NEW SECTION. **Sec. 305.** Nothing in section 204, chapter 5, Laws
10 of 2015 3rd sp. sess. may be construed as affecting the taxable
11 status in calendar year 2015 of any person with a substantial nexus
12 with this state under RCW 82.04.067 any time on or after January 1,
13 2015, and before September 1, 2015, with respect to business and
14 occupation taxes on apportionable activities as defined in RCW
15 82.04.460.

16 NEW SECTION. **Sec. 306.** Section 305 of this act applies
17 retroactively for the period January 1, 2015, through December 31,
18 2015.

19 **Sec. 307.** RCW 82.04.050 and 2015 3rd sp.s. c 6 s 1105 are each
20 amended to read as follows:

21 (1)(a) "Sale at retail" or "retail sale" means every sale of
22 tangible personal property (including articles produced, fabricated,
23 or imprinted) to all persons irrespective of the nature of their
24 business and including, among others, without limiting the scope
25 hereof, persons who install, repair, clean, alter, improve,
26 construct, or decorate real or personal property of or for consumers
27 other than a sale to a person who:

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

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

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

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

13 (v) Purchases for the purpose of providing the property to
14 consumers as part of competitive telephone service, as defined in RCW
15 82.04.065; or

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

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

26 (c) The term also means every sale of tangible personal property
27 to persons engaged in any business that is taxable under RCW
28 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

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

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

39 (b) The constructing, repairing, decorating, or improving of new
40 or existing buildings or other structures under, upon, or above real

1 property of or for consumers, including the installing or attaching
2 of any article of tangible personal property therein or thereto,
3 whether or not such personal property becomes a part of the realty by
4 virtue of installation, and also includes the sale of services or
5 charges made for the clearing of land and the moving of earth
6 excepting the mere leveling of land used in commercial farming or
7 agriculture;

8 (c) The constructing, repairing, or improving of any structure
9 upon, above, or under any real property owned by an owner who conveys
10 the property by title, possession, or any other means to the person
11 performing such construction, repair, or improvement for the purpose
12 of performing such construction, repair, or improvement and the
13 property is then reconveyed by title, possession, or any other means
14 to the original owner;

15 (d) The cleaning, fumigating, razing, or moving of existing
16 buildings or structures, but does not include the charge made for
17 janitorial services; and for purposes of this section the term
18 "janitorial services" means those cleaning and caretaking services
19 ordinarily performed by commercial janitor service businesses
20 including, but not limited to, wall and window washing, floor
21 cleaning and waxing, and the cleaning in place of rugs, drapes and
22 upholstery. The term "janitorial services" does not include painting,
23 papering, repairing, furnace or septic tank cleaning, snow removal or
24 sandblasting;

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

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

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

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

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

15 (a) Abstract, title insurance, and escrow services;

16 (b) Credit bureau services;

17 (c) Automobile parking and storage garage services;

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

23 (e) Service charges associated with tickets to professional
24 sporting events;

25 (f) The following personal services: Tanning salon services,
26 tattoo parlor services, steam bath services, turkish bath services,
27 escort services, and dating services; and

28 (g)(i) Operating an athletic or fitness facility, including all
29 charges for the use of such a facility or for any associated services
30 and amenities, except as provided in (g)(ii) of this subsection.

31 (ii) Notwithstanding anything to the contrary in (g)(i) of this
32 subsection (3), the term "sale at retail" and "retail sale" under
33 this subsection does not include:

34 (A) Separately stated charges for the use of an athletic or
35 fitness facility where such use is primarily for a purpose other than
36 engaging in or receiving instruction in a physical fitness activity;

37 (B) Separately stated charges for the use of a discrete portion
38 of an athletic or fitness facility, other than a pool, where such
39 discrete portion of the facility does not by itself meet the
40 definition of "athletic or fitness facility" in this subsection;

1 (C) Separately stated charges for services, such as advertising,
2 massage, nutritional consulting, and body composition testing, that
3 do not require the customer to engage in physical fitness activities
4 to receive the service. The exclusion in this subsection
5 (3)(g)(ii)(C) does not apply to personal training services and
6 instruction in a physical fitness activity;

7 (D) Separately stated charges for physical therapy provided by a
8 physical therapist, as those terms are defined in RCW 18.74.010, or
9 occupational therapy provided by an occupational therapy
10 practitioner, as those terms are defined in RCW 18.59.020, when
11 performed pursuant to a referral from an authorized health care
12 practitioner or in consultation with an authorized health care
13 practitioner. For the purposes of this subsection (3)(g)(ii)(D), an
14 authorized health care practitioner means a health care practitioner
15 licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or
16 18.71A RCW;

17 (E) Rent or association fees charged by a landlord or residential
18 association to a tenant or residential owner with access to an
19 athletic or fitness facility maintained by the landlord or
20 residential association, unless the rent or fee varies depending on
21 whether the tenant or owner has access to the facility;

22 (F) Services provided in the regular course of employment by an
23 employee with access to an athletic or fitness facility maintained by
24 the employer for use without charge by its employees or their family
25 members;

26 (G) The provision of access to an athletic or fitness facility by
27 an educational institution to its students and staff. However,
28 charges made by an educational institution to its alumni or other
29 members of the public for the use of any of the educational
30 institution's athletic or fitness facilities are a retail sale under
31 this subsection (3)(g). For purposes of this subsection
32 (3)(g)(ii)(G), "educational institution" has the same meaning as in
33 RCW 82.04.170; and

34 (H) Yoga, tai chi, or chi gong classes held at a community
35 center, park, gymnasium, college or university, hospital or other
36 medical facility, private residence, or any facility that is not
37 primarily used for physical fitness activities other than yoga, tai
38 chi, or chi gong classes.

39 (iii) Nothing in (g)(ii) of this subsection (3) may be construed
40 to affect the taxation of sales made by the operator of an athletic

1 or fitness facility, where such sales are defined as a retail sale
2 under any provision of this section other than this subsection (3).

3 (iv) For the purposes of this subsection (3)(g), the following
4 definitions apply:

5 (A) "Athletic or fitness facility" means an indoor or outdoor
6 facility or portion of a facility that is primarily used for:
7 Exercise classes; strength and conditioning programs; personal
8 training services; tennis, racquetball, handball, squash, or
9 pickleball; yoga; boxing, kickboxing, wrestling, martial arts, or
10 mixed martial arts training; or other activities requiring the use of
11 exercise or strength training equipment, such as treadmills,
12 elliptical machines, stair climbers, stationary cycles, rowing
13 machines, pilates equipment, balls, climbing ropes, jump ropes, and
14 weightlifting equipment.

15 (B) "Physical fitness activities" means activities that involve
16 physical exertion for the purpose of improving or maintaining the
17 general fitness, strength, flexibility, conditioning, or health of
18 the participant.

19 (4)(a) The term also includes the renting or leasing of tangible
20 personal property to consumers.

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

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

27 (6)(a) The term also includes the sale of prewritten computer
28 software to a consumer, regardless of the method of delivery to the
29 end user. For purposes of (a) and (b) of this subsection, the sale of
30 prewritten computer software includes the sale of or charge made for
31 a key or an enabling or activation code, where the key or code is
32 required to activate prewritten computer software and put the
33 software into use. There is no separate sale of the key or code from
34 the prewritten computer software, regardless of how the sale may be
35 characterized by the vendor or by the purchaser.

36 (b) The term "retail sale" does not include the sale of or charge
37 made for:

38 (i) Custom software; or

39 (ii) The customization of prewritten computer software.

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

6 (ii)(A) The service described in (c)(i) of this subsection (6)
7 includes the right to access and use prewritten computer software to
8 perform data processing.

9 (B) For purposes of this subsection (6)(c)(ii), "data processing"
10 means the systematic performance of operations on data to extract the
11 required information in an appropriate form or to convert the data to
12 usable information. Data processing includes check processing, image
13 processing, form processing, survey processing, payroll processing,
14 claim processing, and similar activities.

15 (7) The term also includes the sale of or charge made for an
16 extended warranty to a consumer. For purposes of this subsection,
17 "extended warranty" means an agreement for a specified duration to
18 perform the replacement or repair of tangible personal property at no
19 additional charge or a reduced charge for tangible personal property,
20 labor, or both, or to provide indemnification for the replacement or
21 repair of tangible personal property, based on the occurrence of
22 specified events. The term "extended warranty" does not include an
23 agreement, otherwise meeting the definition of extended warranty in
24 this subsection, if no separate charge is made for the agreement and
25 the value of the agreement is included in the sales price of the
26 tangible personal property covered by the agreement. For purposes of
27 this subsection, "sales price" has the same meaning as in RCW
28 82.08.010.

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

31 (i) Sales in which the seller has granted the purchaser the right
32 of permanent use;

33 (ii) Sales in which the seller has granted the purchaser a right
34 of use that is less than permanent;

35 (iii) Sales in which the purchaser is not obligated to make
36 continued payment as a condition of the sale; and

37 (iv) Sales in which the purchaser is obligated to make continued
38 payment as a condition of the sale.

39 (b) A retail sale of digital goods, digital codes, or digital
40 automated services under this subsection (8) includes any services

1 provided by the seller exclusively in connection with the digital
2 goods, digital codes, or digital automated services, whether or not a
3 separate charge is made for such services.

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

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

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

24 (11) The term also does not include sales of chemical sprays or
25 washes to persons for the purpose of postharvest treatment of fruit
26 for the prevention of scald, fungus, mold, or decay, nor does it
27 include sales of feed, seed, seedlings, fertilizer, agents for
28 enhanced pollination including insects such as bees, and spray
29 materials to: (a) Persons who participate in the federal conservation
30 reserve program, the environmental quality incentives program, the
31 wetlands reserve program, and the wildlife habitat incentives
32 program, or their successors administered by the United States
33 department of agriculture; (b) farmers for the purpose of producing
34 for sale any agricultural product; (c) farmers for the purpose of
35 providing bee pollination services; and (d) farmers acting under
36 cooperative habitat development or access contracts with an
37 organization exempt from federal income tax under 26 U.S.C. Sec.
38 501(c)(3) of the federal internal revenue code or the Washington
39 state department of fish and wildlife to produce or improve wildlife
40 habitat on land that the farmer owns or leases.

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

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

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

26 (15)(a) The term "sale at retail" or "retail sale" includes
27 amounts charged, however labeled, to consumers to engage in any of
28 the activities listed in this subsection (15)(a), including the
29 furnishing of any associated equipment or, except as otherwise
30 provided in this subsection, providing instruction in such
31 activities, where such charges are not otherwise defined as a "sale
32 at retail" or "retail sale" in this section:

33 (i)(A) Golf, including any variant in which either golf balls or
34 golf clubs are used, such as miniature golf, hitting golf balls at a
35 driving range, and golf simulators, and including fees charged by a
36 golf course to a player for using his or her own cart. However,
37 charges for golf instruction are not a retail sale, provided that if
38 the instruction involves the use of a golfing facility that would
39 otherwise require the payment of a fee, such as green fees or driving
40 range fees, such fees, including the applicable retail sales tax,

1 must be separately identified and charged by the golfing facility
2 operator to the instructor or the person receiving the instruction.

3 (B) Notwithstanding (a)(i)(A) of this subsection (15) and except
4 as otherwise provided in this subsection (15)(a)(i)(B), the term
5 "sale at retail" or "retail sale" does not include amounts charged to
6 participate in, or conduct, a golf tournament or other competitive
7 event. However, amounts paid by event participants to the golf
8 facility operator are retail sales under this subsection (15)(a)(i).
9 Likewise, amounts paid by the event organizer to the golf facility
10 are retail sales under this subsection (15)(a)(i), if such amounts
11 vary based on the number of event participants;

12 (ii) Ballooning, hang gliding, indoor or outdoor sky diving,
13 paragliding, parasailing, and similar activities;

14 (iii) Air hockey, billiards, pool, foosball, darts, shuffleboard,
15 ping pong, and similar games;

16 (iv) Access to amusement park, theme park, and water park
17 facilities, including but not limited to charges for admission and
18 locker or cabana rentals. Discrete charges for rides or other
19 attractions or entertainment that are in addition to the charge for
20 admission are not a retail sale under this subsection (15)(a)(iv).
21 For the purposes of this subsection, an amusement park or theme park
22 is a location that provides permanently affixed amusement rides,
23 games, and other entertainment, but does not include parks or zoos
24 for which the primary purpose is the exhibition of wildlife, or
25 fairs, carnivals, and festivals as defined in (b)(i) of this
26 subsection;

27 (v) Batting cage activities;

28 (vi) Bowling, but not including competitive events, except that
29 amounts paid by the event participants to the bowling alley operator
30 are retail sales under this subsection (15)(a)(vi). Likewise, amounts
31 paid by the event organizer to the operator of the bowling alley are
32 retail sales under this subsection (15)(a)(vi), if such amounts vary
33 based on the number of event participants;

34 (vii) Climbing on artificial climbing structures, whether indoors
35 or outdoors;

36 (viii) Day trips for sightseeing purposes;

37 (ix) Bungee jumping, zip lining, and riding inside a ball,
38 whether inflatable or otherwise;

39 (x) Horseback riding offered to the public, where the seller
40 furnishes the horse to the buyer and providing instruction is not the

1 primary focus of the activity, including guided rides, but not
2 including therapeutic horseback riding provided by an instructor
3 certified by a nonprofit organization that offers national or
4 international certification for therapeutic riding instructors;

5 (xi) Fishing, including providing access to private fishing areas
6 and charter or guided fishing, except that fishing contests and
7 license fees imposed by a government entity are not a retail sale
8 under this subsection;

9 (xii) Guided hunting and hunting at game farms and shooting
10 preserves, except that hunting contests and license fees imposed by a
11 government entity are not a retail sale under this subsection;

12 (xiii) Swimming, but only in respect to (A) recreational or
13 fitness swimming that is open to the public, such as open swim, lap
14 swimming, and special events like kids night out and pool parties
15 during open swim time, and (B) pool parties for private events, such
16 as birthdays, family gatherings, and employee outings. Fees for
17 swimming lessons, to participate in swim meets and other
18 competitions, or to join a swim team, club, or aquatic facility are
19 not retail sales under this subsection (15)(a)(xiii);

20 (xiv) Go-karting, bumper cars, and other motorized activities
21 where the seller provides the vehicle and the premises where the
22 buyer will operate the vehicle;

23 (~~(Indoor or outdoor playground))~~ Activities((, such as
24 inflatable bounce structures and other inflatables; mazes;
25 trampolines; slides; ball pits; games of tag, including laser tag and
26 soft-dart tag; and)) at an indoor or outdoor location where at least
27 one of the following attractions is offered: Inflatable bounce
28 structures or other inflatables; trampolines; laser tag or soft-dart
29 tag; or human gyroscope rides, regardless of whether such activities
30 occur at the seller's place of business, but ((not including
31 playground activities provided for children by a licensed child day
32 care center or licensed family day care provider as those terms are
33 defined in RCW 43.215.010)) only in respect to charges for drop-in
34 play, or amounts charged for private group events, such as birthday
35 parties, family gatherings, or employee outings;

36 (xvi) Shooting sports and activities, such as target shooting,
37 skeet, trap, sporting clays, "5" stand, and archery, but only in
38 respect to discrete charges to members of the public to engage in
39 these activities, but not including fees to enter a competitive

1 event, instruction that is entirely or predominately classroom based,
2 or to join or renew a membership at a club, range, or other facility;

3 (xvii) Paintball and airsoft activities;

4 (xviii) Skating, including ice skating, roller skating, and
5 inline skating, but only in respect to discrete charges to members of
6 the public to engage in skating activities, but not including skating
7 lessons, competitive events, team activities, or fees to join or
8 renew a membership at a skating facility, club, or other
9 organization;

10 (xix) Nonmotorized snow sports and activities, such as downhill
11 and cross-country skiing, snowboarding, ski jumping, sledding, snow
12 tubing, snowshoeing, and similar snow sports and activities, whether
13 engaged in outdoors or in an indoor facility with or without snow,
14 but only in respect to discrete charges to the public for the use of
15 land or facilities to engage in nonmotorized snow sports and
16 activities, such as fees, however labeled, for the use of ski lifts
17 and tows and daily or season passes for access to trails or other
18 areas where nonmotorized snow sports and activities are conducted.
19 However, fees for the following are not retail sales under this
20 subsection (15)(a)(xix): (A) Instructional lessons; (B) permits
21 issued by a governmental entity to park a vehicle on or access public
22 lands; and (C) permits or leases granted by an owner of private
23 timberland for recreational access to areas used primarily for
24 growing and harvesting timber; and

25 (xx) Scuba diving; snorkeling; river rafting; surfing;
26 kiteboarding; flyboarding; water slides; inflatables, such as water
27 pillows, water trampolines, and water rollers; and similar water
28 sports and activities.

29 (b) Notwithstanding anything to the contrary in this subsection
30 (15), the term "sale at retail" or "retail sale" does not include
31 charges:

32 (i) Made for admission to, and rides or attractions at, fairs,
33 carnivals, and festivals. For the purposes of this subsection, fairs,
34 carnivals, and festivals are events that do not exceed twenty-one
35 days and a majority of the amusement rides, if any, are not affixed
36 to real property;

37 (ii) Made by an educational institution to its students and staff
38 for activities defined as retail sales by (a)(i) through (xx) of this
39 subsection. However, charges made by an educational institution to
40 its alumni or other members of the general public for these

1 activities are a retail sale under this subsection (15). For purposes
2 of this subsection (15)(b)(ii), "educational institution" has the
3 same meaning as in RCW 82.04.170;

4 (iii) Made by a vocational school for commercial diver training
5 that is licensed by the workforce training and education coordinating
6 board under chapter 28C.10 RCW; or

7 (iv) Made for day camps offered by a nonprofit organization or
8 state or local governmental entity that provide youth not older than
9 age eighteen, or that are focused on providing individuals with
10 disabilities or mental illness, the opportunity to participate in a
11 variety of supervised activities.

12 Part IV

13 Automated sales suppression devices and phantom-ware

14 **Sec. 401.** RCW 82.32.670 and 2013 c 309 s 3 are each amended to
15 read as follows:

16 (1)(a) Automated sales suppression devices, phantom-ware,
17 electronic cash registers or point of sale systems used with
18 automated sales suppression devices or phantom-ware, and any property
19 constituting proceeds traceable to any violation of RCW 82.32.290(4)
20 are considered contraband and are subject to seizure and forfeiture.

21 (b) Property subject to forfeiture under (a) of this subsection
22 (1) may be seized by any agent of the department authorized to assess
23 or collect taxes, or law enforcement officer of this state, upon
24 process issued by any superior court or district court having
25 jurisdiction over the property. Seizure without process may be made
26 if:

27 (i) The seizure is incident to an arrest or a search under a
28 search warrant; or

29 (ii) The department or the law enforcement officer has probable
30 cause to believe that the property was used or is intended to be used
31 in violation of RCW 82.32.290(4) and exigent circumstances exist
32 making procurement of a search warrant impracticable.

33 (2) Forfeiture authorized by this section is deemed to have
34 commenced by the seizure. Notice of seizure must be given to the
35 department if the seizure is made by a law enforcement officer
36 without the presence of any agent of the department. The department
37 must cause notice of the seizure and intended forfeiture to be served
38 on the owner of the property seized, if known, and on any other

1 person known by the department to have a right or interest in the
2 seized property. Such service must be made within fifteen days
3 following the seizure or the department's receipt of notification of
4 the seizure. The notice may be served by any method authorized by law
5 or court rule, by certified mail with return receipt requested, or
6 electronically in accordance with RCW 82.32.135. Service by certified
7 mail or electronic means is deemed complete upon mailing the notice,
8 electronically sending the notice, or electronically notifying the
9 person or persons entitled to the notice that the notice is available
10 to be accessed by the person or persons, within the fifteen-day
11 period following the seizure or the department's receipt of
12 notification of the seizure.

13 (3) If no person notifies the department in writing of the
14 person's claim of lawful ownership or right to lawful possession of
15 the item or items seized within thirty days of the date of service of
16 the notice of seizure and intended forfeiture, the item or items
17 seized are deemed forfeited.

18 (4)(a) If any person notifies the department, in writing, of the
19 person's claim of lawful ownership or lawful right to possession of
20 the item or items seized within thirty days of the date of service of
21 the notice of seizure and intended forfeiture, the person or persons
22 must be afforded a reasonable opportunity to be heard as to the
23 claim. The hearing must be before the director or the director's
24 designee. A hearing and any administrative or judicial review is
25 governed by chapter 34.05 RCW. The burden of proof by a preponderance
26 of the evidence is upon the person claiming to be the lawful owner or
27 the person claiming to have the lawful right to possession of the
28 item or items seized.

29 (b) The department must return the item or items to the claimant
30 as soon as possible upon a determination that the claimant is the
31 present lawful owner or is lawfully entitled to possession of the
32 item or items seized.

33 (5) When property is sought to be forfeited on the ground that it
34 constitutes proceeds traceable to a violation of RCW 82.32.290(4),
35 the department must prove by a preponderance of the evidence that the
36 property constitutes proceeds traceable to a violation of RCW
37 82.32.290(4).

38 (6)(a) When automated sales suppression devices or phantom-ware
39 voluntarily surrendered to an agent of the department, or property
40 forfeited under this section, other than proceeds traceable to a

1 violation of RCW 82.32.290(4), is no longer required for evidentiary
2 purposes, the department may:

3 (i) Destroy or have the property destroyed;

4 (ii) Retain the property for training or other official purposes;
5 or

6 (iii) Loan or give the property to any law enforcement or tax
7 administration agency of any state, political subdivision or
8 municipal corporation of a state, or the United States for training
9 or other official purposes. For purposes of this subsection
10 (6)(a)(iii), "state" has the same meaning as in RCW 82.04.462.

11 (b) When proceeds traceable to a violation of RCW 82.32.290(4)
12 forfeited under this section are no longer required for evidentiary
13 purposes, they must be deposited into the general fund.

14 (7) The definitions in this subsection apply to this section:

15 (a) "Automated sales suppression device" means a software program
16 that falsifies the electronic records of electronic cash registers or
17 other point of sale systems, including transaction data and
18 transaction reports. The term includes the software program, any
19 device that carries the software program, or an internet link to the
20 software program.

21 (b) "Electronic cash register" means a device that keeps a
22 register or supporting documents through the means of an electronic
23 device or computer system designed to record transaction data for the
24 purpose of computing, compiling, or processing sales transaction data
25 in whatever manner.

26 (c) "Phantom-ware" means a programming option that is hidden,
27 preinstalled, or installed-at-a-later-time in the operating system of
28 an electronic cash register or other point of sale device, or
29 hardwired into the electronic cash register or other point of sale
30 device, and that can be used to create a virtual second till or may
31 eliminate or manipulate transaction reports that may or may not be
32 preserved in digital formats to represent the true or manipulated
33 record of transactions in the electronic cash register or other point
34 of sale device.

35 (d) "Transaction data" means information about sales
36 transactions, including items purchased by a customer, the price for
37 each item, a taxability determination for each item, a segregated tax
38 amount for each of the taxed items, the amount of cash or credit
39 tendered, the net amount returned to the customer in change, the date
40 and time of the purchase, the name, address, and identification

1 number of the vendor, and the receipt or invoice number of the
2 transaction.

3 (e) "Transaction reports" means a report that includes
4 information associated with sales transactions, taxes collected,
5 media totals, and discount voids at an electronic cash register that
6 can be printed on cash register tape at the end of a day or shift, or
7 a report documenting every action at an electronic cash register or
8 other point of sale device and that is stored electronically.

9 **Part V**

10 **Annual surveys and reports for tax preferences**

11 **Sec. 501.** RCW 82.32.534 and 2016 c 175 s 1 are each amended to
12 read as follows:

13 (1)(a) Every person claiming a tax preference that requires a
14 report under this section, except persons exempt from the provisions
15 of this section, must file a complete annual report with the
16 department. This section does not apply to persons who are not
17 required to have an active tax registration with the department under
18 the provisions of RCW 82.32.030, except when an annual report is
19 required for a property tax preference that requires persons seeking
20 the preference to apply to the department.

21 (b) Except as otherwise provided in this subsection, the report
22 is due by May 31st of the year following any calendar year in which a
23 person becomes eligible to claim the tax preference that requires a
24 report under this section.

25 (c)(i) A tax preference of the type that is ordinarily reported
26 on a tax return and that a person qualified for, but did not report
27 on a previously filed tax return, may be claimed on an amended return
28 filed after the due date for filing the report as provided in (b) of
29 this subsection (1) and within the nonclaim period in RCW 82.32.060,
30 if the person:

31 (A) Is current on its tax return filing obligations for reporting
32 any taxes due under chapter 82.04, 82.08, or 82.16 RCW;

33 (B) Had an active tax registration with the department during the
34 reporting period or periods covered by the amended return or returns;

35 (C) Has not previously claimed the same tax preference on an
36 original or amended return; and

37 (D) Files a complete annual report or reports in compliance with
38 this section with the amended return or returns.

1 (ii) For purposes of this subsection (1)(c), if multiple returns
2 are filed for reporting periods within the same calendar year or two
3 or more calendar years, only one report is required to be filed for
4 each calendar year.

5 (iii) Except as otherwise provided in this subsection
6 (1)(c)(iii), the provisions of this subsection (1)(c) apply beginning
7 January 1, 2019, for amended returns filed for reporting periods in
8 2018 or later. However, if the department determines that it can
9 sooner effectively and efficiently implement this subsection (1)(c),
10 the department may accept amended returns before January 1, 2019, for
11 reporting periods beginning no earlier than January 1st of the year
12 immediately preceding the year during which the department begins
13 accepting amended returns in accordance with this subsection (1)(c).

14 (d) The department may extend the due date for timely filing of
15 annual reports under this section as provided in RCW 82.32.590.

16 ~~((b))~~ (e) The report must include information detailing
17 employment, wages, and employer-provided health and retirement
18 benefits for employment positions in Washington for the year that the
19 tax preference was claimed. However, persons engaged in manufacturing
20 commercial airplanes or components of such airplanes may report
21 employment, wage, and benefit information per job at the
22 manufacturing site for the year that the tax preference was claimed.
23 The report must not include names of employees. The report must also
24 detail employment by the total number of full-time, part-time, and
25 temporary positions for the year that the tax preference was claimed.

26 ~~((c) Persons receiving the benefit of the tax preference~~
27 ~~provided by RCW 82.16.0421 or claiming any of the tax preferences~~
28 ~~provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or~~
29 ~~82.12.022(5) must indicate on the annual report the quantity of~~
30 ~~product produced in this state during the time period covered by the~~
31 ~~report.~~

32 ~~(d))~~ (f) If a person filing a report under this section did not
33 file a report with the department in the previous calendar year, the
34 report filed under this section must also include employment, wage,
35 and benefit information for the calendar year immediately preceding
36 the calendar year for which a tax preference was claimed.

37 (2) As part of the annual report, the department may request
38 additional information necessary to measure the results of, or
39 determine eligibility for, the tax preference. The department must

1 annually seek input on changes to the annual report from the joint
2 legislative audit and review committee.

3 (3) Other than information requested under subsection (2) of this
4 section, the information contained in an annual report filed under
5 this section is not subject to the confidentiality provisions of RCW
6 82.32.330 and may be disclosed to the public upon request.

7 (4)(a) Except as otherwise provided by law, if a person claims a
8 tax preference that requires an annual report under this section but
9 fails to submit a complete report by the due date or any extension
10 under RCW 82.32.590, the department must declare:

11 (i) Thirty-five percent of the amount of the tax preference
12 claimed for the previous calendar year to be immediately due and
13 payable; and

14 (ii) An additional fifteen percent of the amount of the tax
15 preference claimed for the previous calendar year to be immediately
16 due and payable if the person has previously been assessed under this
17 subsection (4) for failure to submit a report under this section for
18 the same tax preference.

19 (b) The department may not assess interest or penalties on
20 amounts due under this subsection.

21 (c) If the tax preference is a property tax preference, the
22 person is not required to repay the amount of the tax preference
23 claimed for failing to timely submit an annual report under this
24 section. However, the person is ineligible to claim the tax
25 preference for taxes levied for collection in the calendar year
26 immediately following the calendar year in which the report was due.
27 The department must provide notice to the appropriate county assessor
28 when a person is ineligible to claim a property tax preference
29 pursuant to this subsection.

30 (5) The department must use the information from this section to
31 prepare summary descriptive statistics by category. No fewer than
32 three taxpayers may be included in any category. The department must
33 report these statistics to the legislature each year by December
34 31st. The department need not revise summary descriptive statistics
35 for previous calendar years as a result of tax preferences claimed on
36 amended returns.

37 (6) For the purposes of determining the identity of persons
38 required to file an annual report as a result of claiming a property
39 tax preference, beginning January 1, 2018, the assessor of the county
40 in which the property receiving the benefit of the tax preference is

1 located must provide written notice to the department that the tax
2 preference has been claimed. Such notice must include the claimant's
3 name, contact information if available, and the address, tax parcel
4 number, or description of the property receiving the benefit of the
5 tax preference. The assessor need not provide the notice required
6 under this subsection (6), if the person is required to file an
7 application with the department to claim the tax preference.

8 (7) For the purposes of this section:

9 (a) "Person" has the meaning provided in RCW 82.04.030 and also
10 includes the state (~~and~~), its departments and institutions, and any
11 other entity that is subject to this section as a result of claiming
12 or receiving the benefit of a tax preference.

13 (b) "Tax preference" has the meaning provided in RCW 43.136.021
14 and includes only the tax preferences requiring a survey under this
15 section.

16 **Sec. 502.** RCW 82.32.585 and 2016 c 175 s 2 are each amended to
17 read as follows:

18 (1)(a) Every person claiming a tax preference that requires a
19 survey under this section, except persons exempt from the provisions
20 of this section, must file a complete annual survey with the
21 department. This section does not apply to persons who are not
22 required to have an active tax registration with the department under
23 the provisions of RCW 82.32.030, except when an annual survey is
24 required for a property tax preference that requires persons seeking
25 the preference to apply to the department.

26 (b)(i) Except as otherwise provided in (~~(a)(ii) of~~) this
27 subsection, the survey is due by May 31st of the year following any
28 calendar year in which a person becomes eligible to claim the tax
29 preference that requires a survey under this section.

30 (ii) If the tax preference is a deferral of tax, the first survey
31 must be filed by May 31st of the calendar year following the calendar
32 year in which the investment project is certified by the department
33 as operationally complete, and a survey must be filed by May 31st of
34 each of the seven succeeding calendar years.

35 (~~(b)~~) (c)(i) A tax preference of the type that is ordinarily
36 reported on a tax return and that a person qualified for, but did not
37 report on a previously filed tax return, may be claimed on an amended
38 return filed after the due date for filing the survey as provided in

1 (b)(i) of this subsection (1) and within the nonclaim period in RCW
2 82.32.060, if the person:

3 (A) Is current on its tax return filing obligations for reporting
4 any taxes due under chapter 82.04, 82.08, or 82.16 RCW;

5 (B) Had an active tax registration with the department during the
6 reporting period or periods covered by the amended return or returns;

7 (C) Has not previously claimed the same tax preference on an
8 original or amended return; and

9 (D) Files a complete annual survey or surveys in compliance with
10 this section with the amended return or returns.

11 (ii) For purposes of this subsection (1)(c), if multiple returns
12 are filed for reporting periods within the same calendar year or two
13 or more calendar years, only one survey is required to be filed for
14 each calendar year.

15 (iii) Except as otherwise provided in this subsection
16 (1)(c)(iii), the provisions of this subsection (1)(c) apply beginning
17 January 1, 2019, for amended returns filed for reporting periods in
18 2018 or later. However, if the department determines that it can
19 sooner effectively and efficiently implement this subsection (1)(c),
20 the department may accept amended returns before January 1, 2019, for
21 reporting periods beginning no earlier than January 1st of the year
22 immediately preceding the year during which the department begins
23 accepting amended returns in accordance with this subsection (1)(c).

24 (d) The department may extend the due date for timely filing of
25 annual surveys under this section as provided in RCW 82.32.590.

26 (2)(a) ((The survey)) Surveys, other than surveys for property
27 tax preferences, must include the amount of the tax preference
28 claimed for the calendar year covered by the survey. For a person
29 that claimed an exemption provided in RCW 82.08.025651 or
30 82.12.025651, the survey must include the amount of tax exempted
31 under those sections in the prior calendar year for each general area
32 or category of research and development for which exempt machinery
33 and equipment and labor and services were acquired in the prior
34 calendar year. For property tax preferences requiring a survey under
35 this section, the survey must include an estimate of the amount of
36 property tax savings provided by the tax preference. Such estimates
37 must be based on existing property tax information maintained by the
38 county assessor and treasurer, such as levy rates and assessed
39 values.

1 (b) (~~The survey~~) All surveys under this section must also
2 include the following information for employment positions in
3 Washington, not to include names of employees, for the year that the
4 tax preference was claimed:

5 (i) The number of total employment positions;

6 (ii) Full-time, part-time, and temporary employment positions as
7 a percent of total employment;

8 (iii) The number of employment positions according to the
9 following wage bands: Less than thirty thousand dollars; thirty
10 thousand dollars or greater, but less than sixty thousand dollars;
11 and sixty thousand dollars or greater. A wage band containing fewer
12 than three individuals may be combined with another wage band; and

13 (iv) The number of employment positions that have
14 employer-provided medical, dental, and retirement benefits, by each
15 of the wage bands.

16 (c) (~~For persons claiming the tax preference provided under~~
17 ~~chapter 82.60 or 82.63 RCW, the survey must also include the number~~
18 ~~of new products or research projects by general classification, and~~
19 ~~the number of trademarks, patents, and copyrights associated with~~
20 ~~activities at the investment project.~~

21 (d) ~~For persons claiming the credit provided under RCW~~
22 ~~82.04.4452, the survey must also include the qualified research and~~
23 ~~development expenditures during the calendar year for which the~~
24 ~~credit was claimed, the taxable amount during the calendar year for~~
25 ~~which the credit was claimed, the number of new products or research~~
26 ~~projects by general classification, the number of trademarks,~~
27 ~~patents, and copyrights associated with the research and development~~
28 ~~activities for which the credit was claimed, and whether the tax~~
29 ~~preference has been assigned, and who assigned the credit. The~~
30 ~~definitions in RCW 82.04.4452 apply to this subsection (2)(d).~~

31 (e) ~~For persons claiming the tax exemption in RCW 82.08.025651 or~~
32 ~~82.12.025651, the survey must also include the general areas or~~
33 ~~categories of research and development for which machinery and~~
34 ~~equipment and labor and services were acquired, exempt from tax under~~
35 ~~RCW 82.08.025651 or 82.12.025651, in the prior calendar year.~~

36 (f)) If the person filing a survey under this section did not
37 file a survey with the department in the previous calendar year, the
38 survey filed under this section must also include the employment,
39 wage, and benefit information required under (b)(i) through (iv) of

1 this subsection for the calendar year immediately preceding the
2 calendar year for which a tax preference was claimed.

3 (3) As part of the annual survey, the department may request
4 additional information necessary to measure the results of, or
5 determine eligibility for, the tax preference. The department must
6 annually seek input on changes to the annual survey from the joint
7 legislative audit and review committee.

8 (4) All information collected under this section, except the
9 information required in subsection (2)(a) of this section, is deemed
10 taxpayer information under RCW 82.32.330. Information required in
11 subsection (2)(a) of this section is not subject to the
12 confidentiality provisions of RCW 82.32.330 and may be disclosed to
13 the public upon request, except as provided in subsection (5) of this
14 section. If the amount of the tax preference claimed as reported on
15 the survey is different than the amount actually claimed or otherwise
16 allowed by the department based on the taxpayer's excise tax returns
17 or other information known to the department, the amount actually
18 claimed or allowed may be disclosed.

19 (5) Persons for whom the actual amount of the tax reduced or
20 saved is less than ten thousand dollars during the period covered by
21 the survey may request the department to treat the amount of the tax
22 reduction or savings as confidential under RCW 82.32.330.

23 (6)(a) Except as provided in (b) of this subsection or as
24 otherwise provided by law, if a person claims a tax preference that
25 requires an annual survey under this section but fails to submit a
26 complete annual survey by the due date of the survey or any extension
27 under RCW 82.32.590, the department must declare:

28 (i) Thirty-five percent of the amount of the tax preference
29 claimed for the previous calendar year to be immediately due; and

30 (ii) An additional fifteen percent of the amount of the tax
31 preference claimed for the previous calendar year to be immediately
32 due and payable, if the person has previously been assessed under
33 this subsection (6) for failure to submit a survey under this section
34 for the same tax preference.

35 (b) If the tax preference is a deferral of tax, the amount
36 immediately due under this subsection is twelve and one-half percent
37 of the deferred tax. If the economic benefits of the deferral are
38 passed to a lessee, the lessee is responsible for payment to the
39 extent the lessee has received the economic benefit.

1 (c) The department may not assess interest or penalties on
2 amounts due under this subsection.

3 (d) If the tax preference is a property tax preference, the
4 person is not required to repay the amount of the tax preference
5 claimed for failing to timely submit an annual survey under this
6 section. However, the person is ineligible to claim the tax
7 preference for taxes levied for collection in the calendar year
8 immediately following the calendar year in which the report was due.
9 The department must provide notice to the appropriate county assessor
10 when a person is ineligible to claim a property tax preference
11 pursuant to this subsection.

12 (7) The department must use the information from this section to
13 prepare summary descriptive statistics by category. No fewer than
14 three taxpayers may be included in any category. The department must
15 report these statistics to the legislature each year by December
16 31st. The department need not revise summary descriptive statistics
17 for previous calendar years as a result of tax preferences claimed on
18 amended returns.

19 (8) For the purposes of determining the identity of persons
20 required to file an annual survey as a result of claiming a property
21 tax preference, beginning January 1, 2018, the assessor of the county
22 in which the property receiving the benefit of the tax preference is
23 located must provide written notice to the department that the tax
24 preference has been claimed. Such notice must include the claimant's
25 name, contact information if available, and the address, tax parcel
26 number, or description of the property receiving the benefit of the
27 tax preference. The assessor need not provide the notice required
28 under this subsection (8), if the person is required to file an
29 application with the department to claim the tax preference.

30 (9) For the purposes of this section:

31 (a) "Person" has the meaning provided in RCW 82.04.030 and also
32 includes the state (~~and~~), its departments and institutions, and any
33 other entity that is subject to this section as a result of claiming
34 or receiving the benefit of a tax preference.

35 (b) "Tax preference" has the meaning provided in RCW 43.136.021
36 and includes only the tax preferences requiring a survey under this
37 section.

38 **Part VI**

39 **Miscellaneous technical corrections**

1 **Sec. 601.** RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each
2 amended to read as follows:

3 (1) In addition to the taxes imposed under RCW 82.04.260(~~((11))~~)
4 (12), a surcharge is imposed on those persons who are subject to any
5 of the taxes imposed under RCW 82.04.260(~~((11))~~) (12). Except as
6 otherwise provided in this section, the surcharge is equal to 0.052
7 percent. The surcharge is added to the rates provided in RCW
8 82.04.260(~~((11))~~) (12) (a), (b), (c), and (d). The surcharge and this
9 section expire July 1, 2024.

10 (2) All receipts from the surcharge imposed under this section
11 must be deposited into the forest and fish support account created in
12 RCW 76.09.405.

13 (3)(a) The surcharge imposed under this section is suspended if:

14 (i) Receipts from the surcharge total at least eight million
15 dollars during any fiscal biennium; or

16 (ii) The office of financial management certifies to the
17 department that the federal government has appropriated at least two
18 million dollars for participation in forest and fish report-related
19 activities by federally recognized Indian tribes located within the
20 geographical boundaries of the state of Washington for any federal
21 fiscal year.

22 (b)(i) The suspension of the surcharge under (a)(i) of this
23 subsection (3) takes effect on the first day of the calendar month
24 that is at least thirty days after the end of the month during which
25 the department determines that receipts from the surcharge total at
26 least eight million dollars during the fiscal biennium. The surcharge
27 is imposed again at the beginning of the following fiscal biennium.

28 (ii) The suspension of the surcharge under (a)(ii) of this
29 subsection (3) takes effect on the later of the first day of October
30 of any federal fiscal year for which the federal government
31 appropriates at least two million dollars for participation in forest
32 and fish report-related activities by federally recognized Indian
33 tribes located within the geographical boundaries of the state of
34 Washington, or the first day of a calendar month that is at least
35 thirty days following the date that the office of financial
36 management makes a certification to the department under subsection
37 (5) of this section. The surcharge is imposed again on the first day
38 of the following July.

39 (4)(a) If, by October 1st of any federal fiscal year, the office
40 of financial management certifies to the department that the federal

1 government has appropriated funds for participation in forest and
2 fish report-related activities by federally recognized Indian tribes
3 located within the geographical boundaries of the state of Washington
4 but the amount of the appropriation is less than two million dollars,
5 the department must adjust the surcharge in accordance with this
6 subsection.

7 (b) The department must adjust the surcharge by an amount that
8 the department estimates will cause the amount of funds deposited
9 into the forest and fish support account for the state fiscal year
10 that begins July 1st and that includes the beginning of the federal
11 fiscal year for which the federal appropriation is made, to be
12 reduced by twice the amount of the federal appropriation for
13 participation in forest and fish report-related activities by
14 federally recognized Indian tribes located within the geographical
15 boundaries of the state of Washington.

16 (c) Any adjustment in the surcharge takes effect at the beginning
17 of a calendar month that is at least thirty days after the date that
18 the office of financial management makes the certification under
19 subsection (5) of this section.

20 (d) The surcharge is imposed again at the rate provided in
21 subsection (1) of this section on the first day of the following
22 state fiscal year unless the surcharge is suspended under subsection
23 (3) of this section or adjusted for that fiscal year under this
24 subsection.

25 (e) Adjustments of the amount of the surcharge by the department
26 are final and may not be used to challenge the validity of the
27 surcharge imposed under this section.

28 (f) The department must provide timely notice to affected
29 taxpayers of the suspension of the surcharge or an adjustment of the
30 surcharge.

31 (5) The office of financial management must make the
32 certification to the department as to the status of federal
33 appropriations for tribal participation in forest and fish report-
34 related activities.

35 **Sec. 602.** RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each
36 amended to read as follows:

37 This chapter does not apply to any sale of standing timber
38 excluded from the definition of "sale" in RCW 82.45.010(3). The
39 definitions in RCW 82.04.260(~~((11))~~) (12) apply to this section.

1 **Sec. 603.** RCW 82.04.43391 and 2010 1st sp.s. c 23 s 112 are each
2 amended to read as follows:

3 (1) In computing tax there may be deducted from the measure of
4 tax interest and fees on loans secured by commercial aircraft
5 primarily used to provide routine air service and owned by:

6 (a) An air carrier, as defined in RCW (~~(82.42.030)~~) 82.42.010,
7 which is primarily engaged in the business of providing passenger air
8 service;

9 (b) An affiliate of such air carrier; or

10 (c) A parent entity for which such air carrier is an affiliate.

11 (2) The deduction authorized under this section is not available
12 to any person who is physically present in this state as determined
13 under RCW 82.04.067(6).

14 (3) For purposes of this section, the following definitions
15 apply:

16 (a) "Affiliate" means a person is "affiliated," as defined in RCW
17 82.04.645, with another person; and

18 (b) "Commercial aircraft" means a commercial airplane as defined
19 in RCW 82.32.550.

20 NEW SECTION. **Sec. 604.** RCW 82.04.4483 (Credit—Programming or
21 manufacturing software in rural counties) and 2010 c 114 s 119 & 2004
22 c 25 s 1 are each repealed.

23 **Sec. 605.** RCW 82.32.030 and 2011 c 298 s 38 are each amended to
24 read as follows:

25 (1) Except as provided in subsections (2) and (3) of this
26 section, if any person engages in any business or performs any act
27 upon which a tax is imposed by the preceding chapters, he or she
28 must, under such rules as the department prescribes, apply for and
29 obtain from the department a registration certificate. Such
30 registration certificate is personal and nontransferable and is valid
31 as long as the taxpayer continues in business and pays the tax
32 accrued to the state. In case business is transacted at two or more
33 separate places by one taxpayer, a separate registration certificate
34 for each place at which business is transacted with the public is
35 required. Each certificate must be numbered and must show the name,
36 residence, and place and character of business of the taxpayer and
37 such other information as the department of revenue deems necessary
38 and must be posted in a conspicuous place at the place of business

1 for which it is issued. Where a place of business of the taxpayer is
2 changed, the taxpayer must return to the department the existing
3 certificate, and a new certificate will be issued for the new place
4 of business. No person required to be registered under this section
5 may engage in any business taxable hereunder without first being so
6 registered. The department, by rule, may provide for the issuance of
7 certificates of registration to temporary places of business.

8 (2) Unless the person is a dealer as defined in RCW 9.41.010,
9 registration under this section is not required if the following
10 conditions are met:

11 (a) A person's value of products, gross proceeds of sales, or
12 gross income of the business, from all business activities taxable
13 under chapter 82.04 RCW, is less than twelve thousand dollars per
14 year;

15 (b) The person's gross income of the business from all activities
16 taxable under chapter 82.16 RCW is less than twelve thousand dollars
17 per year;

18 (c) The person is not required to collect or pay to the
19 department of revenue any other tax or fee (~~which~~) that the
20 department is authorized to collect; and

21 (d) The person is not otherwise required to obtain a license
22 subject to the (~~master~~) business license application procedure
23 provided in chapter 19.02 RCW.

24 (3) All persons who agree to collect and remit sales and use tax
25 to the department under the agreement must register through the
26 central registration system authorized under the agreement. Persons
27 required to register under subsection (1) of this section are not
28 relieved of that requirement because of registration under this
29 subsection (3).

30 (4) Persons registered under subsection (3) of this section who
31 are not required to register under subsection (1) of this section and
32 who are not otherwise subject to the requirements of chapter 19.02
33 RCW are not subject to the fees imposed by the department under the
34 authority of RCW 19.02.075.

35 **Sec. 606.** RCW 84.34.108 and 2014 c 97 s 311 and 2014 c 58 s 28
36 are each reenacted and amended to read as follows:

37 (1) When land has once been classified under this chapter, a
38 notation of the classification must be made each year upon the
39 assessment and tax rolls and the land must be valued pursuant to RCW

1 84.34.060 or 84.34.065 until removal of all or a portion of the
2 classification by the assessor upon occurrence of any of the
3 following:

4 (a) Receipt of notice from the owner to remove all or a portion
5 of the classification;

6 (b) Sale or transfer to an ownership, except a transfer that
7 resulted from a default in loan payments made to or secured by a
8 governmental agency that intends to or is required by law or
9 regulation to resell the property for the same use as before, making
10 all or a portion of the land exempt from ad valorem taxation;

11 (c) Sale or transfer of all or a portion of the land to a new
12 owner, unless the new owner has signed a notice of classification
13 continuance, except transfer to an owner who is an heir or devisee of
14 a deceased owner or transfer by a transfer on death deed does not, by
15 itself, result in removal of classification. The notice of
16 continuance must be on a form prepared by the department. If the
17 notice of continuance is not signed by the new owner and attached to
18 the real estate excise tax affidavit, all additional taxes,
19 applicable interest, and penalty calculated pursuant to subsection
20 (4) of this section become due and payable by the seller or
21 transferor at time of sale. The auditor may not accept an instrument
22 of conveyance regarding classified land for filing or recording
23 unless the new owner has signed the notice of continuance or the
24 additional tax, applicable interest, and penalty has been paid, as
25 evidenced by the real estate excise tax stamp affixed thereto by the
26 treasurer. The seller, transferor, or new owner may appeal the new
27 assessed valuation calculated under subsection (4) of this section to
28 the county board of equalization in accordance with the provisions of
29 RCW 84.40.038. Jurisdiction is hereby conferred on the county board
30 of equalization to hear these appeals;

31 (d)(i) Determination by the assessor, after giving the owner
32 written notice and an opportunity to be heard, that all or a portion
33 of the land no longer meets the criteria for classification under
34 this chapter. The criteria for classification pursuant to this
35 chapter continue to apply after classification has been granted.

36 (ii) The granting authority, upon request of an assessor, must
37 provide reasonable assistance to the assessor in making a
38 determination whether the land continues to meet the qualifications
39 of RCW 84.34.020 (1) or (3). The assistance must be provided within
40 thirty days of receipt of the request.

1 (2) Land may not be removed from classification because of:

2 (a) The creation, sale, or transfer of forestry riparian
3 easements under RCW 76.13.120; or

4 (b) The creation, sale, or transfer of a fee interest or a
5 conservation easement for the riparian open space program under RCW
6 76.09.040.

7 (3) Within thirty days after the removal of all or a portion of
8 the land from current use classification under subsection (1) of this
9 section, the assessor must notify the owner in writing, setting forth
10 the reasons for the removal. The seller, transferor, or owner may
11 appeal the removal to the county board of equalization in accordance
12 with the provisions of RCW 84.40.038. The removal notice must explain
13 the steps needed to appeal the removal decision, including when a
14 notice of appeal must be filed, where the forms may be obtained, and
15 how to contact the county board of equalization.

16 (4) Unless the removal is reversed on appeal, the assessor must
17 revalue the affected land with reference to its true and fair value
18 on January 1st of the year of removal from classification. Both the
19 assessed valuation before and after the removal of classification
20 must be listed and taxes must be allocated according to that part of
21 the year to which each assessed valuation applies. Except as provided
22 in subsection (6) of this section, an additional tax, applicable
23 interest, and penalty must be imposed, which are due and payable to
24 the treasurer thirty days after the owner is notified of the amount
25 of the additional tax, applicable interest, and penalty. As soon as
26 possible, the assessor must compute the amount of additional tax,
27 applicable interest, and penalty and the treasurer must mail notice
28 to the owner of the amount thereof and the date on which payment is
29 due. The amount of the additional tax, applicable interest, and
30 penalty must be determined as follows:

31 (a) The amount of additional tax is equal to the difference
32 between the property tax paid as "open space land," "farm and
33 agricultural land," or "timberland" and the amount of property tax
34 otherwise due and payable for the seven years last past had the land
35 not been so classified;

36 (b) The amount of applicable interest is equal to the interest
37 upon the amounts of the additional tax paid at the same statutory
38 rate charged on delinquent property taxes from the dates on which the
39 additional tax could have been paid without penalty if the land had
40 been assessed at a value without regard to this chapter;

1 (c) The amount of the penalty is as provided in RCW 84.34.080.
2 The penalty may not be imposed if the removal satisfies the
3 conditions of RCW 84.34.070.

4 (5) Additional tax, applicable interest, and penalty become a
5 lien on the land (~~which~~). The lien attaches at the time the land is
6 removed from classification under this chapter and (~~have~~) has
7 priority to and must be fully paid and satisfied before any
8 recognizance, mortgage, judgment, debt, obligation, or responsibility
9 to or with which the land may become charged or liable. This lien may
10 be foreclosed upon expiration of the same period after delinquency
11 and in the same manner provided by law for foreclosure of liens for
12 delinquent real property taxes as provided in RCW 84.64.050. Any
13 additional tax unpaid on the due date (~~are~~~~is~~) is delinquent as
14 of the due date. From the date of delinquency until paid, interest
15 must be charged at the same rate applied by law to delinquent ad
16 valorem property taxes.

17 (6) The additional tax, applicable interest, and penalty
18 specified in subsection (4) of this section may not be imposed if the
19 removal of classification pursuant to subsection (1) of this section
20 resulted solely from:

21 (a) Transfer to a government entity in exchange for other land
22 located within the state of Washington;

23 (b)(i) A taking through the exercise of the power of eminent
24 domain, or (ii) sale or transfer to an entity having the power of
25 eminent domain in anticipation of the exercise of such power, said
26 entity having manifested its intent in writing or by other official
27 action;

28 (c) A natural disaster such as a flood, windstorm, earthquake, or
29 other such calamity rather than by virtue of the act of the landowner
30 changing the use of the property;

31 (d) Official action by an agency of the state of Washington or by
32 the county or city within which the land is located which disallows
33 the present use of the land;

34 (e) Transfer of land to a church when the land would qualify for
35 exemption pursuant to RCW 84.36.020;

36 (f) Acquisition of property interests by state agencies or
37 agencies or organizations qualified under RCW 84.34.210 and 64.04.130
38 for the purposes enumerated in those sections. At such time as these
39 property interests are not used for the purposes enumerated in RCW

1 84.34.210 and 64.04.130 the additional tax specified in subsection
2 (4) of this section must be imposed;

3 (g) Removal of land classified as farm and agricultural land
4 under RCW 84.34.020(2)(f);

5 (h) Removal of land from classification after enactment of a
6 statutory exemption that qualifies the land for exemption and receipt
7 of notice from the owner to remove the land from classification;

8 (i) The creation, sale, or transfer of forestry riparian
9 easements under RCW 76.13.120;

10 (j) The creation, sale, or transfer of a conservation easement of
11 private forestlands within unconfined channel migration zones or
12 containing critical habitat for threatened or endangered species
13 under RCW 76.09.040;

14 (k) The sale or transfer of land within two years after the death
15 of the owner of at least a fifty percent interest in the land if the
16 land has been assessed and valued as classified forestland,
17 designated as forestland under chapter 84.33 RCW, or classified under
18 this chapter continuously since 1993. The date of death shown on a
19 death certificate is the date used for the purposes of this
20 subsection (6)(k); or

21 (l)(i) The discovery that the land was classified under this
22 chapter in error through no fault of the owner. For purposes of this
23 subsection (6)(l), "fault" means a knowingly false or misleading
24 statement, or other act or omission not in good faith, that
25 contributed to the approval of classification under this chapter or
26 the failure of the assessor to remove the land from classification
27 under this chapter.

28 (ii) For purposes of this subsection (6), the discovery that land
29 was classified under this chapter in error through no fault of the
30 owner is not the sole reason for removal of classification pursuant
31 to subsection (1) of this section if an independent basis for removal
32 exists. Examples of an independent basis for removal include the
33 owner changing the use of the land or failing to meet any applicable
34 income criteria required for classification under this chapter.

35 **Sec. 607.** RCW 84.41.041 and 2015 c 86 s 103 are each amended to
36 read as follows:

37 (1) Each county assessor must cause taxable real property to be
38 physically inspected and valued at least once every six years in
39 accordance with RCW 84.41.030, and in accordance with a plan filed

1 with and approved by the department of revenue. Such revaluation plan
2 must provide that all taxable real property within a county must be
3 revalued and these newly determined values placed on the assessment
4 rolls each year. Property must be valued at one hundred percent of
5 its true and fair value and assessed on the same basis, in accordance
6 with RCW 84.40.030, unless specifically provided otherwise by law.
7 (~~During the intervals between each physical inspection of real~~
8 ~~property, the valuation of such property may be adjusted to its~~
9 ~~current true and fair value, such adjustments to be based upon~~
10 ~~appropriate statistical data. If the revaluation plan provides for~~
11 ~~physical inspection less frequently than once each four years,))
12 During the intervals between each physical inspection of real
13 property, the valuation of such property must be adjusted to its
14 current true and fair value, such adjustments to be made once each
15 year and to be based upon appropriate statistical data.~~

16 (2) The assessor may require property owners to submit pertinent
17 data respecting taxable property in their control including data
18 respecting any sale or purchase of said property within the past five
19 years, the cost and characteristics of any improvement on the
20 property and other facts necessary for appraisal of the property.

21 **Sec. 608.** RCW 82.04.280 and 2010 c 106 s 205 are each reenacted
22 to read as follows:

23 (1) Upon every person engaging within this state in the business
24 of: (a) Printing materials other than newspapers, and of publishing
25 periodicals or magazines; (b) building, repairing or improving any
26 street, place, road, highway, easement, right-of-way, mass public
27 transportation terminal or parking facility, bridge, tunnel, or
28 trestle which is owned by a municipal corporation or political
29 subdivision of the state or by the United States and which is used or
30 to be used, primarily for foot or vehicular traffic including mass
31 transportation vehicles of any kind and including any readjustment,
32 reconstruction or relocation of the facilities of any public, private
33 or cooperatively owned utility or railroad in the course of such
34 building, repairing or improving, the cost of which readjustment,
35 reconstruction, or relocation, is the responsibility of the public
36 authority whose street, place, road, highway, easement, right-of-way,
37 mass public transportation terminal or parking facility, bridge,
38 tunnel, or trestle is being built, repaired or improved; (c)
39 extracting for hire or processing for hire, except persons taxable as

1 extractors for hire or processors for hire under another section of
2 this chapter; (d) operating a cold storage warehouse or storage
3 warehouse, but not including the rental of cold storage lockers; (e)
4 representing and performing services for fire or casualty insurance
5 companies as an independent resident managing general agent licensed
6 under the provisions of chapter 48.17 RCW; (f) radio and television
7 broadcasting, excluding network, national and regional advertising
8 computed as a standard deduction based on the national average
9 thereof as annually reported by the federal communications
10 commission, or in lieu thereof by itemization by the individual
11 broadcasting station, and excluding that portion of revenue
12 represented by the out-of-state audience computed as a ratio to the
13 station's total audience as measured by the 100 micro-volt signal
14 strength and delivery by wire, if any; (g) engaging in activities
15 which bring a person within the definition of consumer contained in
16 RCW 82.04.190(6); as to such persons, the amount of tax on such
17 business is equal to the gross income of the business multiplied by
18 the rate of 0.484 percent.

19 (2) For the purposes of this section, the following definitions
20 apply unless the context clearly requires otherwise.

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

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

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

1 **Sec. 609.** RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s
2 401 are each reenacted and amended to read as follows:

3 (1)(a) (~~Section 206, chapter 106, Laws of 2010,~~) Sections 104,
4 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010,
5 (~~section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws~~
6 ~~of 2006,~~) and sections ((4)) 1, 2, 3, and 5 through 10, chapter 149,
7 Laws of 2003 are contingent upon the siting and commercial operation
8 of a significant semiconductor microchip fabrication facility in the
9 state of Washington.

10 (b) For the purposes of this section:

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

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

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

19 (2) (~~Chapter 149, Laws of 2003 takes~~) The sections referenced
20 in subsection (1) of this section take effect the first day of the
21 month in which a contract for the construction of a significant
22 semiconductor fabrication facility is signed, as determined by the
23 director of the department of revenue.

24 (3)(a) The department of revenue must provide notice of the
25 effective date of (~~sections 104, 110, 117, 123, 125, 129, 131, and~~
26 ~~150, chapter 114, Laws of 2010[,]~~ ~~section 3, chapter 461, Laws of~~
27 ~~2009, section 7, chapter 300, Laws of 2006, and section 4, chapter~~
28 ~~149, Laws of 2003~~) the sections referenced in subsection (1) of this
29 section to affected taxpayers, the legislature, and others as deemed
30 appropriate by the department.

31 (b) If, after making a determination that a contract has been
32 signed and (~~chapter 149, Laws of 2003 is~~) the sections referenced
33 in subsection (1) of this section are effective, the department
34 discovers that commencement of commercial production did not take
35 place within three years of the date the contract was signed, the
36 department must make a determination that chapter 149, Laws of 2003
37 is no longer effective, and all taxes that would have been otherwise
38 due are deemed deferred taxes and are immediately assessed and
39 payable from any person reporting tax under RCW 82.04.240(2) or
40 claiming an exemption or credit under (~~section 2 or 5 through 10,~~

1 ~~chapter 149, Laws of 2003))~~ RCW 82.04.426, 82.04.448, 82.08.965,
2 82.12.965, 82.08.970, 82.12.970, or 84.36.645. The department is not
3 authorized to make a second determination regarding the effective
4 date of (~~chapter 149, Laws of 2003))~~ the sections referenced in
5 subsection (1) of this section.

6 NEW SECTION. Sec. 610. The following acts or parts of acts are
7 each repealed:

- 8 (1) 2010 c 106 s 206;
- 9 (2) 2009 c 461 s 3;
- 10 (3) 2006 c 300 s 7; and
- 11 (4) 2003 c 149 s 4.

12 **Sec. 611.** RCW 35.102.130 and 2010 c 111 s 305 are each amended
13 to read as follows:

14 A city that imposes a business and occupation tax must provide
15 for the allocation and apportionment of a person's gross income,
16 other than persons subject to the provisions of chapter 82.14A RCW,
17 as follows:

18 (1) Gross income derived from all activities other than those
19 taxed as service or royalties must be allocated to the location where
20 the activity takes place.

21 (a) In the case of sales of tangible personal property, the
22 activity takes place where delivery to the buyer occurs.

23 (b)(i) In the case of sales of digital products, the activity
24 takes place where delivery to the buyer occurs. The delivery of
25 digital products will be deemed to occur at:

26 (A) The seller's place of business if the purchaser receives the
27 digital product at the seller's place of business;

28 (B) If not received at the seller's place of business, the
29 location where the purchaser or the purchaser's donee, designated as
30 such by the purchaser, receives the digital product, including the
31 location indicated by instructions for delivery to the purchaser or
32 donee, known to the seller;

33 (C) If the location where the purchaser or the purchaser's donee
34 receives the digital product is not known, the purchaser's address
35 maintained in the ordinary course of the seller's business when use
36 of this address does not constitute bad faith;

37 (D) If no address for the purchaser is maintained in the ordinary
38 course of the seller's business, the purchaser's address obtained

1 during the consummation of the sale, including the address of a
2 purchaser's payment instrument, if no other address is available,
3 when use of this address does not constitute bad faith; and

4 (E) If no address for the purchaser is obtained during the
5 consummation of the sale, the address where the digital good or
6 digital code is first made available for transmission by the seller
7 or the address from which the digital automated service or service
8 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c) was provided,
9 disregarding for these purposes any location that merely provided the
10 digital transfer of the product sold.

11 (ii) If none of the methods in (b)(i) of this subsection (1) for
12 determining where the delivery of digital products occurs are
13 available after a good faith effort by the taxpayer to apply the
14 methods provided in (b)(i)(A) through (E) of this subsection (1),
15 then the city and the taxpayer may mutually agree to employ any other
16 method to effectuate an equitable allocation of income from the sale
17 of digital products. The taxpayer will be responsible for petitioning
18 the city to use an alternative method under this subsection
19 (1)(b)(ii). The city may employ an alternative method for allocating
20 the income from the sale of digital products if the methods provided
21 in (b)(i)(A) through (E) of this subsection (1) are not available and
22 the taxpayer and the city are unable to mutually agree on an
23 alternative method to effectuate an equitable allocation of income
24 from the sale of digital products.

25 (iii) For purposes of this subsection (1)(b), the following
26 definitions apply:

27 (A) "Digital automated services," "digital codes," and "digital
28 goods" have the same meaning as in RCW 82.04.192;

29 (B) "Digital products" means digital goods, digital codes,
30 digital automated services, and the services described in RCW
31 82.04.050 (2)(g) and (6)((~~b~~)) (c); and

32 (C) "Receive" has the same meaning as in RCW 82.32.730.

33 (c) If a business activity allocated under this subsection (1)
34 takes place in more than one city and all cities impose a gross
35 receipts tax, a credit must be allowed as provided in RCW 35.102.060;
36 if not all of the cities impose a gross receipts tax, the affected
37 cities must allow another credit or allocation system as they and the
38 taxpayer agree.

1 (2) Gross income derived as royalties from the granting of
2 intangible rights must be allocated to the commercial domicile of the
3 taxpayer.

4 (3) Gross income derived from activities taxed as services shall
5 be apportioned to a city by multiplying apportionable income by a
6 fraction, the numerator of which is the payroll factor plus the
7 service-income factor and the denominator of which is two.

8 (a) The payroll factor is a fraction, the numerator of which is
9 the total amount paid in the city during the tax period by the
10 taxpayer for compensation and the denominator of which is the total
11 compensation paid everywhere during the tax period. Compensation is
12 paid in the city if:

13 (i) The individual is primarily assigned within the city;

14 (ii) The individual is not primarily assigned to any place of
15 business for the tax period and the employee performs fifty percent
16 or more of his or her service for the tax period in the city; or

17 (iii) The individual is not primarily assigned to any place of
18 business for the tax period, the individual does not perform fifty
19 percent or more of his or her service in any city, and the employee
20 resides in the city.

21 (b) The service income factor is a fraction, the numerator of
22 which is the total service income of the taxpayer in the city during
23 the tax period, and the denominator of which is the total service
24 income of the taxpayer everywhere during the tax period. Service
25 income is in the city if:

26 (i) The customer location is in the city; or

27 (ii) The income-producing activity is performed in more than one
28 location and a greater proportion of the service-income-producing
29 activity is performed in the city than in any other location, based
30 on costs of performance, and the taxpayer is not taxable at the
31 customer location; or

32 (iii) The service-income-producing activity is performed within
33 the city, and the taxpayer is not taxable in the customer location.

34 (c) If the allocation and apportionment provisions of this
35 subsection do not fairly represent the extent of the taxpayer's
36 business activity in the city or cities in which the taxpayer does
37 business, the taxpayer may petition for or the tax administrators may
38 jointly require, in respect to all or any part of the taxpayer's
39 business activity, that one of the following methods be used jointly
40 by the cities to allocate or apportion gross income, if reasonable:

- 1 (i) Separate accounting;
2 (ii) The use of a single factor;
3 (iii) The inclusion of one or more additional factors that will
4 fairly represent the taxpayer's business activity in the city; or
5 (iv) The employment of any other method to effectuate an
6 equitable allocation and apportionment of the taxpayer's income.

7 (4) The definitions in this subsection apply throughout this
8 section.

9 (a) "Apportionable income" means the gross income of the business
10 taxable under the service classifications of a city's gross receipts
11 tax, including income received from activities outside the city if
12 the income would be taxable under the service classification if
13 received from activities within the city, less any exemptions or
14 deductions available.

15 (b) "Compensation" means wages, salaries, commissions, and any
16 other form of remuneration paid to individuals for personal services
17 that are or would be included in the individual's gross income under
18 the federal internal revenue code.

19 (c) "Individual" means any individual who, under the usual common
20 law rules applicable in determining the employer-employee
21 relationship, has the status of an employee of that taxpayer.

22 (d) "Customer location" means the city or unincorporated area of
23 a county where the majority of the contacts between the taxpayer and
24 the customer take place.

25 (e) "Primarily assigned" means the business location of the
26 taxpayer where the individual performs his or her duties.

27 (f) "Service-taxable income" or "service income" means gross
28 income of the business subject to tax under either the service or
29 royalty classification.

30 (g) "Tax period" means the calendar year during which tax
31 liability is accrued. If taxes are reported by a taxpayer on a basis
32 more frequent than once per year, taxpayers shall calculate the
33 factors for the previous calendar year for reporting in the current
34 calendar year and correct the reporting for the previous year when
35 the factors are calculated for that year, but not later than the end
36 of the first quarter of the following year.

37 (h) "Taxable in the customer location" means either that a
38 taxpayer is subject to a gross receipts tax in the customer location
39 for the privilege of doing business, or that the government where the
40 customer is located has the authority to subject the taxpayer to

1 gross receipts tax regardless of whether, in fact, the government
2 does so.

3 **Sec. 612.** RCW 82.04.060 and 2015 c 169 s 2 are each amended to
4 read as follows:

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

6 (1) Any sale, which is not a sale at retail, of:

7 (a) Tangible personal property;

8 (b) Services defined as a retail sale in RCW 82.04.050(2) (a) or
9 (g);

10 (c) Activities defined as a retail sale in RCW 82.04.050(15);

11 (d) Prewritten computer software;

12 (e) Services described in RCW 82.04.050(6)((~~b~~)) (c);

13 (f) Extended warranties as defined in RCW 82.04.050(7);

14 (g) Competitive telephone service, ancillary services, or
15 telecommunications service as those terms are defined in RCW
16 82.04.065; or

17 (h) Digital goods, digital codes, or digital automated services;

18 (2) Any charge made for labor and services rendered for persons
19 who are not consumers, in respect to real or personal property, if
20 such charge is expressly defined as a retail sale by RCW 82.04.050
21 when rendered to or for consumers. For the purposes of this
22 subsection (2), "real or personal property" does not include any
23 natural products named in RCW 82.04.100; and

24 (3) The sale of any service for resale, if the sale is excluded
25 from the definition of "sale at retail" and "retail sale" in RCW
26 82.04.050(14).

27 **Sec. 613.** RCW 82.04.190 and 2015 c 169 s 3 are each amended to
28 read as follows:

29 "Consumer" means the following:

30 (1) Any person who purchases, acquires, owns, holds, or uses any
31 article of tangible personal property irrespective of the nature of
32 the person's business and including, among others, without limiting
33 the scope hereof, persons who install, repair, clean, alter, improve,
34 construct, or decorate real or personal property of or for consumers
35 other than for the purpose of:

36 (a) Resale as tangible personal property in the regular course of
37 business;

1 (b) Incorporating such property as an ingredient or component of
2 real or personal property when installing, repairing, cleaning,
3 altering, imprinting, improving, constructing, or decorating such
4 real or personal property of or for consumers;

5 (c) Consuming such property in producing for sale as a new
6 article of tangible personal property or a new substance, of which
7 such property becomes an ingredient or component or as a chemical
8 used in processing, when the primary purpose of such chemical is to
9 create a chemical reaction directly through contact with an
10 ingredient of a new article being produced for sale;

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

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

20 (2)(a) Any person engaged in any business activity taxable under
21 RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires,
22 or uses any competitive telephone service, ancillary services, or
23 telecommunications service as those terms are defined in RCW
24 82.04.065, other than for resale in the regular course of business;

25 (c) any person who purchases, acquires, or uses any service defined
26 in RCW 82.04.050(2) (a) or (g), other than for resale in the regular
27 course of business or for the purpose of satisfying the person's
28 obligations under an extended warranty as defined in RCW

29 82.04.050(7); (d) any person who makes a purchase meeting the
30 definition of "sale at retail" and "retail sale" under RCW
31 82.04.050(15), other than for resale in the regular course of
32 business; (e) any person who purchases or acquires an extended

33 warranty as defined in RCW 82.04.050(7) other than for resale in the
34 regular course of business; and (f) any person who is an end user of
35 software. For purposes of this subsection (2)(f) and RCW
36 82.04.050(6), a person who purchases or otherwise acquires prewritten

37 computer software, who provides services described in RCW
38 82.04.050(6)((~~b~~)) (c) and who will charge consumers for the right
39 to access and use the prewritten computer software, is not an end
40 user of the prewritten computer software;

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

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

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

33 (6) Any person engaged in the business of constructing,
34 repairing, decorating, or improving new or existing buildings or
35 other structures under, upon, or above real property of or for the
36 United States, any instrumentality thereof, or a county or city
37 housing authority created pursuant to chapter 35.82 RCW, including
38 the installing or attaching of any article of tangible personal
39 property therein or thereto, whether or not such personal property
40 becomes a part of the realty by virtue of installation; also, any

1 person engaged in the business of clearing land and moving earth of
2 or for the United States, any instrumentality thereof, or a county or
3 city housing authority created pursuant to chapter 35.82 RCW. Any
4 such person is a consumer within the meaning of this subsection in
5 respect to tangible personal property incorporated into, installed
6 in, or attached to such building or other structure by such person,
7 except that consumer does not include any person engaged in the
8 business of constructing, repairing, decorating, or improving new or
9 existing buildings or other structures under, upon, or above real
10 property of or for the United States, or any instrumentality thereof,
11 if the investment project would qualify for sales and use tax
12 deferral under chapter 82.63 RCW if undertaken by a private entity;

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

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

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

31 (10) Any person who purchases, acquires, or uses services
32 described in RCW 82.04.050(6)((~~b~~)) (c) other than:

33 (a) For resale in the regular course of business; or

34 (b) For purposes of consuming the service described in RCW
35 82.04.050(6)((~~b~~)) (c) in producing for sale a new product, but only
36 if such service becomes a component of the new product. For purposes
37 of this subsection (10), "product" means a digital product, an
38 article of tangible personal property, or the service described in
39 RCW 82.04.050(6)((~~b~~)) (c);

1 (11)(a) Any end user of a digital product or digital code.
2 "Consumer" does not include any person who is not an end user of a
3 digital product or a digital code and purchases, acquires, owns,
4 holds, or uses any digital product or digital code for purposes of
5 consuming the digital product or digital code in producing for sale a
6 new product, but only if the digital product or digital code becomes
7 a component of the new product. A digital code becomes a component of
8 a new product if the digital good or digital automated service
9 acquired through the use of the digital code becomes incorporated
10 into a new product. For purposes of this subsection, "product" has
11 the same meaning as in subsection (10) of this section.

12 (b)(i) For purposes of this subsection, "end user" means any
13 taxpayer as defined in RCW 82.12.010 other than a taxpayer who
14 receives by contract a digital product for further commercial
15 broadcast, rebroadcast, transmission, retransmission, licensing,
16 relicensing, distribution, redistribution or exhibition of the
17 product, in whole or in part, to others. A person that purchases
18 digital products or digital codes for the purpose of giving away such
19 products or codes will not be considered to have engaged in the
20 distribution or redistribution of such products or codes and will be
21 treated as an end user;

22 (ii) If a purchaser of a digital code does not receive the
23 contractual right to further redistribute, after the digital code is
24 redeemed, the underlying digital product to which the digital code
25 relates, then the purchaser of the digital code is an end user. If
26 the purchaser of the digital code receives the contractual right to
27 further redistribute, after the digital code is redeemed, the
28 underlying digital product to which the digital code relates, then
29 the purchaser of the digital code is not an end user. A purchaser of
30 a digital code who has the contractual right to further redistribute
31 the digital code is an end user if that purchaser does not have the
32 right to further redistribute, after the digital code is redeemed,
33 the underlying digital product to which the digital code relates;

34 (12) Any person who provides services described in RCW
35 82.04.050(9). Any such person is a consumer with respect to the
36 purchase, acquisition, or use of the tangible personal property that
37 the person provides along with an operator in rendering services
38 defined as a retail sale in RCW 82.04.050(9). Any such person may
39 also be a consumer under other provisions of this section;

1 (13) Any person who purchases, acquires, owns, holds, or uses
2 chemical sprays or washes for the purpose of postharvest treatment of
3 fruit for the prevention of scald, fungus, mold, or decay, or who
4 purchases feed, seed, seedlings, fertilizer, agents for enhanced
5 pollination including insects such as bees, and spray materials, is
6 not a consumer of such items, but only to the extent that the items:

7 (a) Are used in relation to the person's participation in the
8 federal conservation reserve program, the environmental quality
9 incentives program, the wetlands reserve program, the wildlife
10 habitat incentives program, or their successors administered by the
11 United States department of agriculture;

12 (b) Are for use by a farmer for the purpose of producing for sale
13 any agricultural product; or

14 (c) Are for use by a farmer to produce or improve wildlife
15 habitat on land the farmer owns or leases while acting under
16 cooperative habitat development or access contracts with an
17 organization exempt from federal income tax under 26 U.S.C. Sec.
18 501(c)(3) of the federal internal revenue code or the Washington
19 state department of fish and wildlife; and

20 (14) A regional transit authority is not a consumer with respect
21 to labor, services, or tangible personal property purchased pursuant
22 to agreements providing maintenance services for bus, rail, or rail
23 fixed guideway equipment when a transit agency, as defined in RCW
24 81.104.015, performs the labor or services.

25 **Sec. 614.** RCW 82.04.192 and 2010 c 111 s 203 are each amended to
26 read as follows:

27 (1) "Digital audio works" means works that result from the
28 fixation of a series of musical, spoken, or other sounds, including
29 ringtones.

30 (2) "Digital audiovisual works" means a series of related images
31 which, when shown in succession, impart an impression of motion,
32 together with accompanying sounds, if any.

33 (3)(a) "Digital automated service," except as provided in (b) of
34 this subsection (3), means any service transferred electronically
35 that uses one or more software applications.

36 (b) "Digital automated service" does not include:

37 (i) Any service that primarily involves the application of human
38 effort by the seller, and the human effort originated after the
39 customer requested the service;

1 (ii) The loaning or transferring of money or the purchase, sale,
2 or transfer of financial instruments. For purposes of this subsection
3 (3)(b)(ii), "financial instruments" include cash, accounts receivable
4 and payable, loans and notes receivable and payable, debt securities,
5 equity securities, as well as derivative contracts such as forward
6 contracts, swap contracts, and options;

7 (iii) Dispensing cash or other physical items from a machine;

8 (iv) Payment processing services;

9 (v) Parimutuel wagering and handicapping contests as authorized
10 by chapter 67.16 RCW;

11 (vi) Telecommunications services and ancillary services as those
12 terms are defined in RCW 82.04.065;

13 (vii) The internet and internet access as those terms are defined
14 in RCW 82.04.297;

15 (viii) The service described in RCW 82.04.050(6)((~~b~~)) (c);

16 (ix) Online educational programs provided by a:

17 (A) Public or private elementary or secondary school; or

18 (B) An institution of higher education as defined in sections
19 1001 or 1002 of the federal higher education act of 1965 (Title 20
20 U.S.C. Secs. 1001 and 1002), as existing on July 1, 2009. For
21 purposes of this subsection (3)(b)(ix)(B), an online educational
22 program must be encompassed within the institution's accreditation;

23 (x) Live presentations, such as lectures, seminars, workshops, or
24 courses, where participants are connected to other participants via
25 the internet or telecommunications equipment, which allows audience
26 members and the presenter or instructor to give, receive, and discuss
27 information with each other in real time;

28 (xi) Travel agent services, including online travel services, and
29 automated systems used by travel agents to book reservations;

30 (xii)(A) A service that allows the person receiving the service
31 to make online sales of products or services, digital or otherwise,
32 using either: (I) The service provider's web site; or (II) the
33 service recipient's web site, but only when the service provider's
34 technology is used in creating or hosting the service recipient's web
35 site or is used in processing orders from customers using the service
36 recipient's web site.

37 (B) The service described in this subsection (3)(b)(xii) does not
38 include the underlying sale of the products or services, digital or
39 otherwise, by the person receiving the service;

1 (xiii) Advertising services. For purposes of this subsection
2 (3)(b)(xiii), "advertising services" means all services directly
3 related to the creation, preparation, production, or the
4 dissemination of advertisements. Advertising services include layout,
5 art direction, graphic design, mechanical preparation, production
6 supervision, placement, and rendering advice to a client concerning
7 the best methods of advertising that client's products or services.
8 Advertising services also include online referrals, search engine
9 marketing and lead generation optimization, web campaign planning,
10 the acquisition of advertising space in the internet media, and the
11 monitoring and evaluation of web site traffic for purposes of
12 determining the effectiveness of an advertising campaign. Advertising
13 services do not include web hosting services and domain name
14 registration;

15 (xiv) The mere storage of digital products, digital codes,
16 computer software, or master copies of software. This exclusion from
17 the definition of digital automated services includes providing space
18 on a server for web hosting or the backing up of data or other
19 information;

20 (xv) Data processing services. For purposes of this subsection
21 (3)(b)(xv), "data processing service" means a primarily automated
22 service provided to a business or other organization where the
23 primary object of the service is the systematic performance of
24 operations by the service provider on data supplied in whole or in
25 part by the customer to extract the required information in an
26 appropriate form or to convert the data to usable information. Data
27 processing services include check processing, image processing, form
28 processing, survey processing, payroll processing, claim processing,
29 and similar activities. Data processing does not include the service
30 described in RCW 82.04.050(6)((~~b~~)) (c); and

31 (xvi) Digital goods.

32 (4) "Digital books" means works that are generally recognized in
33 the ordinary and usual sense as books.

34 (5) "Digital code" means a code that provides a purchaser with
35 the right to obtain one or more digital products, if all of the
36 digital products to be obtained through the use of the code have the
37 same sales and use tax treatment. "Digital code" does not include a
38 code that represents a stored monetary value that is deducted from a
39 total as it is used by the purchaser. "Digital code" also does not
40 include a code that represents a redeemable card, gift card, or gift

1 certificate that entitles the holder to select digital products of an
2 indicated cash value. A digital code may be obtained by any means,
3 including email or by tangible means regardless of its designation as
4 song code, video code, book code, or some other term.

5 (6)(a) "Digital goods," except as provided in (b) of this
6 subsection (6), means sounds, images, data, facts, or information, or
7 any combination thereof, transferred electronically, including, but
8 not limited to, specified digital products and other products
9 transferred electronically not included within the definition of
10 specified digital products.

11 (b) The term "digital goods" does not include:

12 (i) Telecommunications services and ancillary services as those
13 terms are defined in RCW 82.04.065;

14 (ii) Computer software as defined in RCW 82.04.215;

15 (iii) The internet and internet access as those terms are defined
16 in RCW 82.04.297;

17 (iv)(A) Except as provided in (b)(iv)(B) of this subsection (6),
18 the representation of a personal or professional service in
19 electronic form, such as an electronic copy of an engineering report
20 prepared by an engineer, where the service primarily involves the
21 application of human effort by the service provider, and the human
22 effort originated after the customer requested the service.

23 (B) The exclusion in (b)(iv)(A) of this subsection (6) does not
24 apply to photographers in respect to amounts received for the taking
25 of photographs that are transferred electronically to the customer,
26 but only if the customer is an end user, as defined in RCW
27 82.04.190(11), of the photographs. Such amounts are considered to be
28 for the sale of digital goods; and

29 (v) Services and activities excluded from the definition of
30 digital automated services in subsection (3)(b)(i) through (xv) of
31 this section and not otherwise described in (b)(i) through (iv) of
32 this subsection (6).

33 (7) "Digital products" means digital goods and digital automated
34 services.

35 (8) "Electronically transferred" or "transferred electronically"
36 means obtained by the purchaser by means other than tangible storage
37 media. It is not necessary that a copy of the product be physically
38 transferred to the purchaser. So long as the purchaser may access the
39 product, it will be considered to have been electronically
40 transferred to the purchaser.

1 (9) "Specified digital products" means electronically transferred
2 digital audiovisual works, digital audio works, and digital books.

3 (10) "Subscription radio services" means the sale of audio
4 programming by a radio broadcaster as defined in RCW 82.08.02081,
5 except as otherwise provided in this subsection. "Subscription radio
6 services" does not include audio programming that is sold on a pay-
7 per-program basis or that allows the buyer to access a library of
8 programs at any time for a specific charge for that service.

9 (11) "Subscription television services" means the sale of video
10 programming by a television broadcaster as defined in RCW
11 82.08.02081, except as otherwise provided in this subsection.
12 "Subscription television services" does not include video programming
13 that is sold on a pay-per-program basis or that allows the buyer to
14 access a library of programs at any time for a specific charge for
15 that service, but only if the seller is not subject to a franchise
16 fee in this state under the authority of Title 47 U.S.C. Sec. 542(a)
17 on the gross revenue derived from the sale.

18 **Sec. 615.** RCW 82.04.257 and 2010 c 111 s 301 are each amended to
19 read as follows:

20 (1) Except as provided in subsection (2) of this section, upon
21 every person engaging within this state in the business of making
22 sales at retail or wholesale of digital goods, digital codes, digital
23 automated services, or services described in RCW 82.04.050 (2)(g) or
24 (6)((~~b~~)) (c), as to such persons, the amount of tax with respect to
25 such business is equal to the gross proceeds of sales of the
26 business, multiplied by the rate of 0.471 percent in the case of
27 retail sales and by the rate of 0.484 percent in the case of
28 wholesale sales.

29 (2) Persons providing subscription television services or
30 subscription radio services are subject to tax under RCW 82.04.290(2)
31 on the gross income of the business received from providing such
32 services.

33 (3) For purposes of this section, a person is considered to be
34 engaging within this state in the business of making sales of digital
35 goods, digital codes, digital automated services, or services
36 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c), if the person
37 makes sales of digital goods, digital codes, digital automated
38 services, or services described in RCW 82.04.050 (2)(g) or (6)((~~b~~))
39 (c) and the sales are sourced to this state under RCW 82.32.730 for

1 sales tax purposes or would have been sourced to this state under RCW
2 82.32.730 if the sale had been taxable under chapter 82.08 RCW.

3 (4) A person subject to tax under this section is subject to the
4 mandatory electronic filing and payment requirements in RCW
5 82.32.080.

6 **Sec. 616.** RCW 82.04.258 and 2009 c 535 s 402 are each amended to
7 read as follows:

8 (1)(a) Any person subject to tax under RCW 82.04.257 engaging
9 both within and outside this state in the business of making sales at
10 retail or wholesale of digital goods, digital codes, digital
11 automated services, or services described in RCW 82.04.050 (2)(g) or
12 (6)((~~b~~)) (c), must apportion to this state that portion of
13 apportionable income derived from activity performed within this
14 state as provided in subsection (2) of this section.

15 (b) For purposes of this subsection, a person is considered to be
16 engaging outside this state in the business of making sales of
17 digital goods, digital codes, digital automated services, or services
18 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c) if the person
19 makes any sales of digital goods, digital codes, digital automated
20 services, or services described in RCW 82.04.050 (2)(g) or (6)((~~b~~))
21 (c) that are sourced to a jurisdiction other than Washington under
22 RCW 82.32.730 for sales tax purposes or would have been sourced to a
23 jurisdiction other than Washington under RCW 82.32.730 if the sale
24 had been a retail sale.

25 (2) Apportionable income must be apportioned to Washington by
26 multiplying the apportionable income by the sales factor.

27 (3)(a) The sales factor is a fraction, the numerator of which is
28 the total receipts of the taxpayer from making sales of digital
29 goods, digital codes, digital automated services, and services
30 described in RCW 82.04.050 (2)(g) or (6)((~~b~~)) (c) in this state
31 during the tax period, and the denominator of which is the total
32 receipts of the taxpayer derived from such activity everywhere during
33 the tax period.

34 (b) For purposes of computing the sales factor, sales are
35 considered in this state if the sale was sourced to this state under
36 RCW 82.32.730 for sales tax purposes or would have been sourced to
37 this state under RCW 82.32.730 if the sale had been taxable under
38 chapter 82.08 RCW.

1 (4) For purposes of this section, "apportionable income" means
2 the gross income of the business taxable under RCW 82.04.257,
3 including income received from activities outside this state if the
4 income would be taxable under RCW 82.04.257 if received from
5 activities in this state.

6 **Sec. 617.** RCW 82.08.02082 and 2010 c 111 s 401 are each amended
7 to read as follows:

8 (1) The tax imposed by RCW 82.08.020 does not apply to a business
9 or other organization for the purpose of making the digital good or
10 digital automated service, including a digital good or digital
11 automated service acquired through the use of a digital code, or
12 service defined as a retail sale in RCW 82.04.050(6)((~~b~~)) (c)
13 available free of charge for the use or enjoyment of the general
14 public. The exemption provided in this section does not apply unless
15 the purchaser has the legal right to broadcast, rebroadcast,
16 transmit, retransmit, license, relicense, distribute, redistribute,
17 or exhibit the product, in whole or in part, to the general public.

18 (2) The exemption is available only when the buyer provides the
19 seller with an exemption certificate in a form and manner prescribed
20 by the department. The seller must retain a copy of the certificate
21 for the seller's files.

22 (3) For purposes of this section, "general public" means all
23 persons and not limited or restricted to a particular class of
24 persons, except that the general public includes:

25 (a) A class of persons that is defined as all persons residing or
26 owning property within the boundaries of a state, political
27 subdivision of a state, or a municipal corporation; and

28 (b) With respect to libraries, authorized library patrons.

29 **Sec. 618.** RCW 82.08.02088 and 2009 c 535 s 701 are each amended
30 to read as follows:

31 (1) The tax imposed by RCW 82.08.020 does not apply to the sale
32 of digital goods, digital codes, digital automated services,
33 prewritten computer software, or services defined as a retail sale in
34 RCW 82.04.050(6)((~~b~~)) (c) to a buyer that provides the seller with
35 an exemption certificate claiming multiple points of use. An
36 exemption certificate claiming multiple points of use must be in a
37 form and contain such information as required by the department.

1 (2) A buyer is entitled to use an exemption certificate claiming
2 multiple points of use only if the buyer is a business or other
3 organization and the digital goods or digital automated services
4 purchased, or the digital goods or digital automated services to be
5 obtained by the digital code purchased, or the prewritten computer
6 software or services defined as a retail sale in RCW 82.04.050(6)
7 (~~(b)~~) (c) purchased will be concurrently available for use within
8 and outside this state. A buyer is not entitled to use an exemption
9 certificate claiming multiple points of use for digital goods,
10 digital codes, digital automated services, prewritten computer
11 software, or services defined as a retail sale in RCW 82.04.050(6)
12 (~~(b)~~) (c) purchased for personal use.

13 (3) A buyer claiming an exemption under this section must report
14 and pay the tax imposed in RCW 82.12.020 and any local use taxes
15 imposed under the authority of chapter 82.14 RCW and RCW 81.104.170
16 directly to the department in accordance with RCW 82.12.02088 and
17 82.14.457.

18 (4) For purposes of this section, "concurrently available for use
19 within and outside this state" means that employees or other agents
20 of the buyer may use the digital goods, digital automated services,
21 prewritten computer software, or services defined as a retail sale in
22 RCW 82.04.050(6)(~~(b)~~) (c) simultaneously from one or more locations
23 within this state and one or more locations outside this state. A
24 digital code is concurrently available for use within and outside
25 this state if employees or other agents of the buyer may use the
26 digital goods or digital automated services to be obtained by the
27 code simultaneously at one or more locations within this state and
28 one or more locations outside this state.

29 **Sec. 619.** RCW 82.12.010 and 2015 c 169 s 5 are each amended to
30 read as follows:

31 For the purposes of this chapter:

32 (1) The meaning ascribed to words and phrases in chapters 82.04
33 and 82.08 RCW, insofar as applicable, has full force and effect with
34 respect to taxes imposed under the provisions of this chapter.
35 "Consumer," in addition to the meaning ascribed to it in chapters
36 82.04 and 82.08 RCW insofar as applicable, also means any person who
37 distributes or displays, or causes to be distributed or displayed,
38 any article of tangible personal property, except newspapers, the
39 primary purpose of which is to promote the sale of products or

1 services. With respect to property distributed to persons within this
2 state by a consumer as defined in this subsection (1), the use of the
3 property is deemed to be by such consumer.

4 (2) "Extended warranty" has the same meaning as in RCW
5 82.04.050(7).

6 (3) "Purchase price" means the same as sales price as defined in
7 RCW 82.08.010.

8 (4)(a)(i) Except as provided in (a)(ii) of this subsection (4),
9 "retailer" means every seller as defined in RCW 82.08.010 and every
10 person engaged in the business of selling tangible personal property
11 at retail and every person required to collect from purchasers the
12 tax imposed under this chapter.

13 (ii) "Retailer" does not include a professional employer
14 organization when a covered employee coemployed with the client under
15 the terms of a professional employer agreement engages in activities
16 that constitute a sale of tangible personal property, extended
17 warranty, digital good, digital code, or a sale of any digital
18 automated service or service defined as a retail sale in RCW
19 82.04.050 (2) (a) or (g) or (6)((~~b~~)) (c) that is subject to the tax
20 imposed by this chapter. In such cases, the client, and not the
21 professional employer organization, is deemed to be the retailer and
22 is responsible for collecting and remitting the tax imposed by this
23 chapter.

24 (b) For the purposes of (a) of this subsection, the terms
25 "client," "covered employee," "professional employer agreement," and
26 "professional employer organization" have the same meanings as in RCW
27 82.04.540.

28 (5) "Taxpayer" and "purchaser" include all persons included
29 within the meaning of the word "buyer" and the word "consumer" as
30 defined in chapters 82.04 and 82.08 RCW.

31 (6) "Use," "used," "using," or "put to use" have their ordinary
32 meaning, and mean:

33 (a) With respect to tangible personal property, except for
34 natural gas and manufactured gas, the first act within this state by
35 which the taxpayer takes or assumes dominion or control over the
36 article of tangible personal property (as a consumer), and include
37 installation, storage, withdrawal from storage, distribution, or any
38 other act preparatory to subsequent actual use or consumption within
39 this state;

1 (b) With respect to a service defined in RCW 82.04.050(2)(a), the
2 first act within this state after the service has been performed by
3 which the taxpayer takes or assumes dominion or control over the
4 article of tangible personal property upon which the service was
5 performed (as a consumer), and includes installation, storage,
6 withdrawal from storage, distribution, or any other act preparatory
7 to subsequent actual use or consumption of the article within this
8 state;

9 (c) With respect to an extended warranty, the first act within
10 this state after the extended warranty has been acquired by which the
11 taxpayer takes or assumes dominion or control over the article of
12 tangible personal property to which the extended warranty applies,
13 and includes installation, storage, withdrawal from storage,
14 distribution, or any other act preparatory to subsequent actual use
15 or consumption of the article within this state;

16 (d) With respect to a digital good or digital code, the first act
17 within this state by which the taxpayer, as a consumer, views,
18 accesses, downloads, possesses, stores, opens, manipulates, or
19 otherwise uses or enjoys the digital good or digital code;

20 (e) With respect to a digital automated service, the first act
21 within this state by which the taxpayer, as a consumer, uses, enjoys,
22 or otherwise receives the benefit of the service;

23 (f) With respect to a service defined as a retail sale in RCW
24 82.04.050(6)((~~b~~)) (c), the first act within this state by which the
25 taxpayer, as a consumer, accesses the prewritten computer software;

26 (g) With respect to a service defined as a retail sale in RCW
27 82.04.050(2)(g), the first act within this state after the service
28 has been performed by which the taxpayer, as a consumer, views,
29 accesses, downloads, possesses, stores, opens, manipulates, or
30 otherwise uses or enjoys the digital good upon which the service was
31 performed; and

32 (h) With respect to natural gas or manufactured gas, the use of
33 which is taxable under RCW 82.12.022, including gas that is also
34 taxable under the authority of RCW 82.14.230, the first act within
35 this state by which the taxpayer consumes the gas by burning the gas
36 or storing the gas in the taxpayer's own facilities for later
37 consumption by the taxpayer.

38 (7)(a) "Value of the article used" is the purchase price for the
39 article of tangible personal property, the use of which is taxable
40 under this chapter. The term also includes, in addition to the

1 purchase price, the amount of any tariff or duty paid with respect to
2 the importation of the article used. In case the article used is
3 acquired by lease or by gift or is extracted, produced, or
4 manufactured by the person using the same or is sold under conditions
5 wherein the purchase price does not represent the true value thereof,
6 the value of the article used is determined as nearly as possible
7 according to the retail selling price at place of use of similar
8 products of like quality and character under such rules as the
9 department may prescribe.

10 (b) In case the articles used are acquired by bailment, the value
11 of the use of the articles so used must be in an amount representing
12 a reasonable rental for the use of the articles so bailed, determined
13 as nearly as possible according to the value of such use at the
14 places of use of similar products of like quality and character under
15 such rules as the department of revenue may prescribe. In case any
16 such articles of tangible personal property are used in respect to
17 the construction, repairing, decorating, or improving of, and which
18 become or are to become an ingredient or component of, new or
19 existing buildings or other structures under, upon, or above real
20 property of or for the United States, any instrumentality thereof, or
21 a county or city housing authority created pursuant to chapter 35.82
22 RCW, including the installing or attaching of any such articles
23 therein or thereto, whether or not such personal property becomes a
24 part of the realty by virtue of installation, then the value of the
25 use of such articles so used is determined according to the retail
26 selling price of such articles, or in the absence of such a selling
27 price, as nearly as possible according to the retail selling price at
28 place of use of similar products of like quality and character or, in
29 the absence of either of these selling price measures, such value may
30 be determined upon a cost basis, in any event under such rules as the
31 department of revenue may prescribe.

32 (c) In the case of articles owned by a user engaged in business
33 outside the state which are brought into the state for no more than
34 one hundred eighty days in any period of three hundred sixty-five
35 consecutive days and which are temporarily used for business purposes
36 by the person in this state, the value of the article used must be an
37 amount representing a reasonable rental for the use of the articles,
38 unless the person has paid tax under this chapter or chapter 82.08
39 RCW upon the full value of the article used, as defined in (a) of
40 this subsection.

1 (d) In the case of articles manufactured or produced by the user
2 and used in the manufacture or production of products sold or to be
3 sold to the department of defense of the United States, the value of
4 the articles used is determined according to the value of the
5 ingredients of such articles.

6 (e) In the case of an article manufactured or produced for
7 purposes of serving as a prototype for the development of a new or
8 improved product, the value of the article used is determined by: (i)
9 The retail selling price of such new or improved product when first
10 offered for sale; or (ii) the value of materials incorporated into
11 the prototype in cases in which the new or improved product is not
12 offered for sale.

13 (f) In the case of an article purchased with a direct pay permit
14 under RCW 82.32.087, the value of the article used is determined by
15 the purchase price of such article if, but for the use of the direct
16 pay permit, the transaction would have been subject to sales tax.

17 (8) "Value of the digital good or digital code used" means the
18 purchase price for the digital good or digital code, the use of which
19 is taxable under this chapter. If the digital good or digital code is
20 acquired other than by purchase, the value of the digital good or
21 digital code must be determined as nearly as possible according to
22 the retail selling price at place of use of similar digital goods or
23 digital codes of like quality and character under rules the
24 department may prescribe.

25 (9) "Value of the extended warranty used" means the purchase
26 price for the extended warranty, the use of which is taxable under
27 this chapter. If the extended warranty is received by gift or under
28 conditions wherein the purchase price does not represent the true
29 value of the extended warranty, the value of the extended warranty
30 used is determined as nearly as possible according to the retail
31 selling price at place of use of similar extended warranties of like
32 quality and character under rules the department may prescribe.

33 (10) "Value of the service used" means the purchase price for the
34 digital automated service or other service, the use of which is
35 taxable under this chapter. If the service is received by gift or
36 under conditions wherein the purchase price does not represent the
37 true value thereof, the value of the service used is determined as
38 nearly as possible according to the retail selling price at place of
39 use of similar services of like quality and character under rules the
40 department may prescribe.

1 **Sec. 620.** RCW 82.12.020 and 2015 c 169 s 6 are each amended to
2 read as follows:

3 (1) There is levied and collected from every person in this state
4 a tax or excise for the privilege of using within this state as a
5 consumer any:

6 (a) Article of tangible personal property acquired by the user in
7 any manner, including tangible personal property acquired at a casual
8 or isolated sale, and including by-products used by the manufacturer
9 thereof, except as otherwise provided in this chapter, irrespective
10 of whether the article or similar articles are manufactured or are
11 available for purchase within this state;

12 (b) Prewritten computer software, regardless of the method of
13 delivery, but excluding prewritten computer software that is either
14 provided free of charge or is provided for temporary use in viewing
15 information, or both;

16 (c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or
17 (g) or (6)((~~b~~)) (c), excluding services defined as a retail sale in
18 RCW 82.04.050(6)((~~b~~)) (c) that are provided free of charge;

19 (d) Extended warranty; or

20 (e)(i) Digital good, digital code, or digital automated service,
21 including the use of any services provided by a seller exclusively in
22 connection with digital goods, digital codes, or digital automated
23 services, whether or not a separate charge is made for such services.

24 (ii) With respect to the use of digital goods, digital automated
25 services, and digital codes acquired by purchase, the tax imposed in
26 this subsection (1)(e) applies in respect to:

27 (A) Sales in which the seller has granted the purchaser the right
28 of permanent use;

29 (B) Sales in which the seller has granted the purchaser a right
30 of use that is less than permanent;

31 (C) Sales in which the purchaser is not obligated to make
32 continued payment as a condition of the sale; and

33 (D) Sales in which the purchaser is obligated to make continued
34 payment as a condition of the sale.

35 (iii) With respect to digital goods, digital automated services,
36 and digital codes acquired other than by purchase, the tax imposed in
37 this subsection (1)(e) applies regardless of whether or not the
38 consumer has a right of permanent use or is obligated to make
39 continued payment as a condition of use.

1 (2) The provisions of this chapter do not apply in respect to the
2 use of any article of tangible personal property, extended warranty,
3 digital good, digital code, digital automated service, or service
4 taxable under RCW 82.04.050 (2) (a) or (g) or (6)(~~(b)~~) (c), if the
5 sale to, or the use by, the present user or the present user's bailor
6 or donor has already been subjected to the tax under chapter 82.08
7 RCW or this chapter and the tax has been paid by the present user or
8 by the present user's bailor or donor.

9 (3)(a) Except as provided in this section, payment of the tax
10 imposed by this chapter or chapter 82.08 RCW by one purchaser or user
11 of tangible personal property, extended warranty, digital good,
12 digital code, digital automated service, or other service does not
13 have the effect of exempting any other purchaser or user of the same
14 property, extended warranty, digital good, digital code, digital
15 automated service, or other service from the taxes imposed by such
16 chapters.

17 (b) The tax imposed by this chapter does not apply:

18 (i) If the sale to, or the use by, the present user or his or her
19 bailor or donor has already been subjected to the tax under chapter
20 82.08 RCW or this chapter and the tax has been paid by the present
21 user or by his or her bailor or donor;

22 (ii) In respect to the use of any article of tangible personal
23 property acquired by bailment and the tax has once been paid based on
24 reasonable rental as determined by RCW 82.12.060 measured by the
25 value of the article at time of first use multiplied by the tax rate
26 imposed by chapter 82.08 RCW or this chapter as of the time of first
27 use;

28 (iii) In respect to the use of any article of tangible personal
29 property acquired by bailment, if the property was acquired by a
30 previous bailee from the same bailor for use in the same general
31 activity and the original bailment was prior to June 9, 1961; or

32 (iv) To the use of digital goods or digital automated services,
33 which were obtained through the use of a digital code, if the sale of
34 the digital code to, or the use of the digital code by, the present
35 user or the present user's bailor or donor has already been subjected
36 to the tax under chapter 82.08 RCW or this chapter and the tax has
37 been paid by the present user or by the present user's bailor or
38 donor.

39 (4)(a) Except as provided in (b) of this subsection (4), the tax
40 is levied and must be collected in an amount equal to the value of

1 the article used, value of the digital good or digital code used,
2 value of the extended warranty used, or value of the service used by
3 the taxpayer, multiplied by the applicable rates in effect for the
4 retail sales tax under RCW 82.08.020.

5 (b) In the case of a seller required to collect use tax from the
6 purchaser, the tax must be collected in an amount equal to the
7 purchase price multiplied by the applicable rate in effect for the
8 retail sales tax under RCW 82.08.020.

9 (5) For purposes of the tax imposed in this section, "person"
10 includes anyone within the definition of "buyer," "purchaser," and
11 "consumer" in RCW 82.08.010.

12 **Sec. 621.** RCW 82.12.02082 and 2010 c 111 s 501 are each amended
13 to read as follows:

14 The provisions of this chapter do not apply to the use by a
15 business or other organization of digital goods, digital codes,
16 digital automated services, or services defined as a retail sale in
17 RCW 82.04.050(6)((~~b~~)) (c) for the purpose of making the digital
18 good or digital automated service, including a digital good or
19 digital automated service acquired through the use of a digital code,
20 or service defined as a retail sale in RCW 82.04.050(6)((~~b~~)) (c)
21 available free of charge for the use or enjoyment of the general
22 public. For purposes of this section, "general public" has the same
23 meaning as in RCW 82.08.02082. The exemption provided in this section
24 does not apply unless the user has the legal right to broadcast,
25 rebroadcast, transmit, retransmit, license, relicense, distribute,
26 redistribute, or exhibit the product, in whole or in part, to the
27 general public.

28 **Sec. 622.** RCW 82.12.02088 and 2009 c 535 s 702 are each amended
29 to read as follows:

30 (1) A business or other organization subject to the tax imposed
31 in RCW 82.12.020 on the use of digital goods, digital codes, digital
32 automated services, prewritten computer software, or services defined
33 as a retail sale in RCW 82.04.050(6)((~~b~~)) (c) that are concurrently
34 available for use within and outside this state is entitled to
35 apportion the amount of tax due this state based on users in this
36 state compared to users everywhere. The department may authorize or
37 require an alternative method of apportionment supported by the
38 taxpayer's records that fairly reflects the proportion of in-state to

1 out-of-state use by the taxpayer of the digital goods, digital
2 automated services, prewritten computer software, or services defined
3 as a retail sale in RCW 82.04.050(6)((~~b~~)) (c).

4 (2) No apportionment under this section is allowed unless the
5 apportionment method is supported by the taxpayer's records kept in
6 the ordinary course of business.

7 (3) For purposes of this section, the following definitions
8 apply:

9 (a) "Concurrently available for use within and outside this
10 state" means that employees or other agents of the taxpayer may use
11 the digital goods, digital automated services, prewritten computer
12 software, or services defined as a retail sale in RCW 82.04.050(6)
13 ((~~b~~)) (c) simultaneously at one or more locations within this state
14 and one or more locations outside this state. A digital code is
15 concurrently available for use within and outside this state if
16 employees or other agents of the taxpayer may use the digital goods
17 or digital automated services to be obtained by the code
18 simultaneously at one or more locations within this state and one or
19 more locations outside this state.

20 (b) "User" means an employee or agent of the taxpayer who is
21 authorized by the taxpayer to use the digital goods, digital
22 automated services, prewritten computer software, or services defined
23 as a retail sale in RCW 82.04.050(6)((~~b~~)) (c) in the performance of
24 his or her duties as an employee or other agent of the taxpayer.

25 **Sec. 623.** RCW 82.12.0259 and 2009 c 535 s 613 are each amended
26 to read as follows:

27 The provisions of this chapter do not apply in respect to the use
28 of personal property or the use of digital automated services or
29 services defined in RCW 82.04.050 (2)(a) or (6)((~~b~~)) (c) by
30 corporations that have been incorporated under any act of the
31 congress of the United States and whose principal purposes are to
32 furnish volunteer aid to members of the armed forces of the United
33 States and also to carry on a system of national and international
34 relief and to apply the same in mitigating the sufferings caused by
35 pestilence, famine, fire, flood, and other national calamities and to
36 devise and carry on measures for preventing the same.

37 **Sec. 624.** RCW 82.12.035 and 2015 c 169 s 8 are each amended to
38 read as follows:

1 A credit is allowed against the taxes imposed by this chapter
2 upon the use in this state of tangible personal property, extended
3 warranty, digital good, digital code, digital automated service, or
4 services defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or
5 (6)((~~b~~)) (c), in the amount that the present user thereof or his or
6 her bailor or donor has paid a legally imposed retail sales or use
7 tax with respect to such property, extended warranty, digital good,
8 digital code, digital automated service, or service defined as a
9 retail sale in RCW 82.04.050 (2) (a) or (g) or (6)((~~b~~)) (c) to any
10 other state, possession, territory, or commonwealth of the United
11 States, any political subdivision thereof, the District of Columbia,
12 and any foreign country or political subdivision thereof.

13 **Sec. 625.** RCW 82.12.040 and 2015 c 169 s 9 are each amended to
14 read as follows:

15 (1) Every person who maintains in this state a place of business
16 or a stock of goods, or engages in business activities within this
17 state, must obtain from the department a certificate of registration,
18 and must, at the time of making sales of tangible personal property,
19 digital goods, digital codes, digital automated services, extended
20 warranties, or sales of any service defined as a retail sale in RCW
21 82.04.050 (2) (a) or (g) or (6)((~~b~~)) (c), or making transfers of
22 either possession or title, or both, of tangible personal property
23 for use in this state, collect from the purchasers or transferees the
24 tax imposed under this chapter. The tax to be collected under this
25 section must be in an amount equal to the purchase price multiplied
26 by the rate in effect for the retail sales tax under RCW 82.08.020.
27 For the purposes of this chapter, the phrase "maintains in this state
28 a place of business" includes the solicitation of sales and/or taking
29 of orders by sales agents or traveling representatives. For the
30 purposes of this chapter, "engages in business activity within this
31 state" includes every activity which is sufficient under the
32 Constitution of the United States for this state to require
33 collection of tax under this chapter. The department must in rules
34 specify activities which constitute engaging in business activity
35 within this state, and must keep the rules current with future court
36 interpretations of the Constitution of the United States.

37 (2) Every person who engages in this state in the business of
38 acting as an independent selling agent for persons who do not hold a
39 valid certificate of registration, and who receives compensation by

1 reason of sales of tangible personal property, digital goods, digital
2 codes, digital automated services, extended warranties, or sales of
3 any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)
4 or (6)((+b+)) (c), of his or her principals for use in this state,
5 must, at the time such sales are made, collect from the purchasers
6 the tax imposed on the purchase price under this chapter, and for
7 that purpose is deemed a retailer as defined in this chapter.

8 (3) The tax required to be collected by this chapter is deemed to
9 be held in trust by the retailer until paid to the department, and
10 any retailer who appropriates or converts the tax collected to the
11 retailer's own use or to any use other than the payment of the tax
12 provided herein to the extent that the money required to be collected
13 is not available for payment on the due date as prescribed is guilty
14 of a misdemeanor. In case any seller fails to collect the tax herein
15 imposed or having collected the tax, fails to pay the same to the
16 department in the manner prescribed, whether such failure is the
17 result of the seller's own acts or the result of acts or conditions
18 beyond the seller's control, the seller is nevertheless personally
19 liable to the state for the amount of such tax, unless the seller has
20 taken from the buyer a copy of a direct pay permit issued under RCW
21 82.32.087.

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

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

29 (a) The person's activities in this state, whether conducted
30 directly or through another person, are limited to:

- 31 (i) The storage, dissemination, or display of advertising;
- 32 (ii) The taking of orders; or
- 33 (iii) The processing of payments; and

34 (b) The activities are conducted electronically via a web site on
35 a server or other computer equipment located in Washington that is
36 not owned or operated by the person making sales into this state nor
37 owned or operated by an affiliated person. "Affiliated persons" has
38 the same meaning as provided in RCW 82.04.424.

39 (6) Subsection (5) of this section expires when: (a) The United
40 States congress grants individual states the authority to impose

1 sales and use tax collection duties on remote sellers; or (b) it is
2 determined by a court of competent jurisdiction, in a judgment not
3 subject to review, that a state can impose sales and use tax
4 collection duties on remote sellers.

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

13 (8) Notwithstanding subsections (1) through (4) of this section,
14 any person making sales is not obligated to collect the tax imposed
15 by this chapter if the state is prohibited under the Constitution or
16 laws of the United States from requiring the person to collect the
17 tax imposed by this chapter.

18 (9) Notwithstanding subsections (1) through (4) of this section,
19 any licensed dealer facilitating a firearm sale or transfer between
20 two unlicensed persons by conducting background checks under chapter
21 9.41 RCW is not obligated to collect the tax imposed by this chapter.

22 **Sec. 626.** RCW 82.12.860 and 2015 c 169 s 10 are each amended to
23 read as follows:

24 (1) This chapter does not apply to state credit unions with
25 respect to the use of any article of tangible personal property,
26 digital good, digital code, digital automated service, service
27 defined as a retail sale in RCW 82.04.050 (2) (a) or (g) or (6)
28 (~~((b))~~) (c), or extended warranty, acquired from a federal credit
29 union, foreign credit union, or out-of-state credit union as a result
30 of a merger or conversion.

31 (2) For purposes of this section, the following definitions
32 apply:

33 (a) "Federal credit union" means a credit union organized and
34 operating under the laws of the United States.

35 (b) "Foreign credit union" means a credit union organized and
36 operating under the laws of another country or other foreign
37 jurisdiction.

1 (c) "Out-of-state credit union" means a credit union organized
2 and operating under the laws of another state or United States
3 territory or possession.

4 (d) "State credit union" means a credit union organized and
5 operating under the laws of this state.

6 **Sec. 627.** RCW 82.14.457 and 2009 c 535 s 703 are each amended to
7 read as follows:

8 (1) A business or other organization that is entitled under RCW
9 82.12.02088 to apportion the amount of state use tax on the use of
10 digital goods, digital codes, digital automated services, prewritten
11 computer software, or services defined as a retail sale in RCW
12 82.04.050(6)((~~b~~)) (c) is also entitled to apportion the amount of
13 local use taxes imposed under the authority of this chapter and RCW
14 81.104.170 on the use of such products or services.

15 (2) To ensure that the tax base for state and local use taxes is
16 identical, the measure of local use taxes apportioned under this
17 section must be the same as the measure of state use tax apportioned
18 under RCW 82.12.02088.

19 (3) This section does not affect the sourcing of local use taxes.

20 **Sec. 628.** RCW 82.04.4277 and 2016 sp.s. c 29 s 532 are each
21 amended to read as follows:

22 (1) A health or social welfare organization may deduct from the
23 measure of tax amounts received as compensation for providing mental
24 health services or chemical dependency services under a government-
25 funded program.

26 (2) A behavioral health organization may deduct from the measure
27 of tax amounts received from the state of Washington for distribution
28 to a health or social welfare organization that is eligible to deduct
29 the distribution under subsection (1) of this section.

30 (3) A person claiming a deduction under this section must file a
31 complete annual report with the department under RCW 82.32.534.

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

34 (a) "Chemical dependency" has the same meaning as provided in RCW
35 70.96A.020 through March 31, 2018, and the same meaning as provided
36 in RCW 71.05.020 beginning April 1, 2018.

37 (b) "Health or social welfare organization" has the meaning
38 provided in RCW 82.04.431.

1 (c) "Mental health services" and "behavioral health organization"
2 have the meanings provided in RCW 71.24.025.

3 (5) This section expires January 1, 2020.

4 **Sec. 629.** RCW 84.12.270 and 2001 c 187 s 3 are each amended to
5 read as follows:

6 The department of revenue (~~shall~~) must annually make an
7 assessment of the operating property of all companies(~~and~~).
8 Between the fifteenth day of March and the first day of July of each
9 year (~~shall~~) the department must prepare an initial assessment roll
10 upon which (~~it shall~~) the department must enter and assess the true
11 and fair value of all the operating property of each of such
12 companies as of the first day of January of the year in which the
13 assessment is made. The department must finalize the assessment roll
14 by the twentieth day of August of each year. For the purpose of
15 determining the true and fair value of such property the department
16 of revenue may inspect the property belonging to (~~said~~) the
17 companies and may take into consideration any information or
18 knowledge obtained by (~~it~~) the department from (~~such~~) an
19 examination and inspection of such property, or of the books,
20 records, and accounts of such companies, the statements filed as
21 required by this chapter, the reports, statements, or returns of such
22 companies filed in the office of any board, office, or commission of
23 this state or any county thereof, the earnings and earning power of
24 such companies, the franchises owned or used by such companies, the
25 true and fair valuation of any and all property of such companies,
26 whether operating or nonoperating property, and whether situated
27 within or outside the state, and any other facts, evidence, or
28 information that may be obtainable bearing upon the value of the
29 operating property(~~and PROVIDED, That~~). However, in no event
30 (~~shall~~) may any statement or report required from any company by
31 this chapter be conclusive upon the department of revenue in
32 determining the amount, character, and true and fair value of the
33 operating property of such company.

34 **Sec. 630.** RCW 84.12.330 and 2001 c 187 s 6 are each amended to
35 read as follows:

36 Upon the assessment roll (~~shall~~) must be placed after the name
37 of each company a general description of the operating property of
38 the company, which (~~shall be~~) is considered sufficient if described

1 in the language of RCW 84.12.200(~~(+12)~~) (8), as applied to the
2 company, following which (~~shall~~) must be entered the true and fair
3 value of the operating property as determined by the department of
4 revenue. No assessment (~~shall~~) may be invalidated by reason of a
5 mistake in the name of the company assessed, or the omission of the
6 name of the owner or by the entry as owner of a name other than that
7 of the true owner. When the department of revenue (~~shall have~~) has
8 prepared the assessment roll and entered thereon the true and fair
9 value of the operating property of the company, as herein required,
10 (~~it shall~~) the department must notify the company by mail of the
11 valuation determined by it and entered upon the roll.

12 **Sec. 631.** RCW 84.16.040 and 2001 c 187 s 9 are each amended to
13 read as follows:

14 The department of revenue (~~shall~~) must annually make an
15 assessment of the operating property of each private car company(~~+~~
16 ~~and~~). Between the first day of May and the first day of July of each
17 year (~~shall~~) the department must prepare an initial assessment roll
18 upon which (~~it shall~~) the department must enter and assess the true
19 and fair value of all the operating property of each of such
20 companies as of the first day of January of the year in which the
21 assessment is made. The department must finalize the assessment roll
22 by the twentieth day of August of each year. For the purpose of
23 determining the true and fair value of such property the department
24 of revenue may take into consideration any information or knowledge
25 obtained by (~~it~~) the department from an examination and inspection
26 of such property, or of the books, records, and accounts of such
27 companies, the statements filed as required by this chapter, the
28 reports, statements, or returns of such companies filed in the office
29 of any board, office, or commission of this state or any county
30 thereof, the earnings and earning power of such companies, the
31 franchises owned or used by such companies, the true and fair
32 valuation of any and all property of such companies, whether
33 operating property or nonoperating property, and whether situated
34 within or without the state, and any other facts, evidences, or
35 information that may be obtainable bearing upon the value of the
36 operating property(~~+~~ ~~PROVIDED, That~~). However, in no event
37 (~~shall~~) may any statement or report required from any company by
38 this chapter be conclusive upon the department of revenue in

1 determining the amount, character, and true and fair value of the
2 operating property of such company.

3 **Sec. 632.** RCW 84.16.090 and 2001 c 187 s 11 are each amended to
4 read as follows:

5 Upon the assessment roll (~~shall~~) must be placed after the name
6 of each company a general description of the operating property of
7 the company, which (~~shall be~~) is considered sufficient if described
8 in the language of RCW 84.16.010(3) or otherwise, following which
9 (~~shall~~) must be entered the true and fair value of the operating
10 property as determined by the department of revenue. No assessment
11 (~~shall be~~) is invalid by a mistake in the name of the company
12 assessed, by omission of the name of the owner or by the entry of a
13 name other than that of the true owner. When the department of
14 revenue (~~shall have~~) has prepared the initial assessment roll and
15 entered thereon the true and fair value of the operating property of
16 the company, as required, (~~it shall~~) the department must notify the
17 company by mail of the valuation determined by it and entered upon
18 the roll; and thereupon such valuation (~~shall~~) must become the true
19 and fair value of the operating property of the company, subject to
20 revision or correction by the department of revenue as hereinafter
21 provided; and (~~shall~~) must be the valuation upon which, after
22 equalization by the department of revenue as hereinafter provided,
23 the taxes of such company (~~shall be~~) are based and computed.

24 **Part VII**
25 **Estate tax return filing relief**

26 **Sec. 701.** RCW 83.100.050 and 2008 c 181 s 504 are each amended
27 to read as follows:

28 (1) A Washington return must be filed if(~~:(a) A federal return~~
29 ~~is required to be filed; or (b) for decedents dying prior to January~~
30 ~~1, 2006, the gross estate exceeds one million five hundred thousand~~
31 ~~dollars; or (c) for decedents dying on or after January 1, 2006, the~~
32 ~~gross estate exceeds two million dollars)) the gross estate equals or
33 exceeds the applicable exclusion amount.~~

34 (2) If a Washington return is required as provided in subsection
35 (1) of this section:

36 (a) A person required to file a federal return (~~shall~~) must
37 file with the department on or before the date the federal return is

1 required to be filed, including any extension of time for filing
2 under subsection (4) or (6) of this section, a Washington return for
3 the tax due under this chapter.

4 (b) If no federal return is required to be filed, a taxpayer
5 shall file with the department on or before the date a federal return
6 would have been required to be filed, including any extension of time
7 for filing under subsection (5) or (6) of this section, a Washington
8 return for the tax due under this chapter.

9 (3) A Washington return delivered to the department by United
10 States mail (~~(shall be)~~) is considered to have been received by the
11 department on the date of the United States postmark stamped on the
12 cover in which the return is mailed, if the postmark date is within
13 the time allowed for filing the Washington return, including
14 extensions.

15 (4) In addition to the Washington return required to be filed in
16 subsection (2) of this section, a person(~~(, if required to file a
17 federal return, shall)~~) must file with the department on or before
18 the date the federal return is (~~(required to be filed a copy of the
19 federal return along with all supporting documentation)~~) or would
20 have been required to be filed all supporting documentation for
21 completed Washington return schedules, and, if a federal return has
22 been filed, a copy of the federal return. If the person required to
23 file the federal return has obtained an extension of time for filing
24 the federal return, the person (~~(shall)~~) must file the Washington
25 return within the same time period and in the same manner as provided
26 for the federal return. A copy of the federal extension (~~(shall)~~)
27 must be filed with the department on or before the date the
28 Washington return is due, not including any extension of time for
29 filing, or within thirty days of issuance, whichever is later.

30 (5) A person may obtain an extension of time for filing the
31 Washington return as provided by rule of the department, if the
32 person is required to file a Washington return under subsection (2)
33 of this section, but is not required to file a federal return.

34 (6) During a state of emergency declared under RCW 43.06.010(12),
35 the department, on its own motion or at the request of any taxpayer
36 affected by the emergency, may extend the time for filing a
37 Washington return under this section as the department deems proper.

38 **Part VIII**

1 **Clarifying that licensing information may not be disclosed for**
 2 **commercial purposes**

3 **Sec. 801.** RCW 19.02.115 and 2013 c 144 s 26 are each amended to
 4 read as follows:

5 (1) (~~For purposes of this section~~) The definitions in this
 6 subsection apply throughout this section unless the context clearly
 7 requires otherwise.

8 (a) "Disclose" means to make known to any person in any manner
 9 licensing information(~~)~~.

10 (b) "Licensing information" means any information created or
 11 obtained by the department in the administration of this chapter and
 12 chapters 19.80 and 59.30 RCW, which information relates to any person
 13 who: (i) Has applied for or has been issued a license or trade name;
 14 or (ii) has been issued an assessment or delinquency fee. Licensing
 15 information includes initial and renewal business license
 16 applications, and business licenses(~~)~~.

17 (c) "Person" has the same meaning as in RCW 82.04.030 and also
 18 includes the state and the state's departments and institutions(~~+~~
 19 ~~and~~).

20 (d) "State agency" means every Washington state office,
 21 department, division, bureau, board, commission, or other state
 22 agency.

23 (2) Licensing information is confidential and privileged, and
 24 except as authorized by this section, neither the department nor any
 25 other person may disclose any licensing information. Nothing in this
 26 chapter requires any person possessing licensing information made
 27 confidential and privileged by this section to delete information
 28 from such information so as to permit its disclosure.

29 (3) This section does not prohibit the department of revenue, or
 30 any other person receiving licensing information from the department
 31 under this subsection, from:

32 (a) Disclosing licensing information in a civil or criminal
 33 judicial proceeding or an administrative proceeding:

34 (i) In which the person about whom such licensing information is
 35 sought and the department, another state agency, or a local
 36 government are adverse parties in the proceeding; or

37 (ii) Involving a dispute arising out of the department's
 38 administration of chapter 19.80 or 59.30 RCW, or this chapter if the
 39 licensing information relates to a party in the proceeding;

1 (b) Disclosing, subject to such requirements and conditions as
2 the director prescribes by rules adopted pursuant to chapter 34.05
3 RCW, such licensing information regarding a license applicant or
4 license holder to such license applicant or license holder or to such
5 person or persons as that license applicant or license holder may
6 designate in a request for, or consent to, such disclosure, or to any
7 other person, at the license applicant's or license holder's request,
8 to the extent necessary to comply with a request for information or
9 assistance made by the license applicant or license holder to such
10 other person. However, licensing information not received from the
11 license applicant or holder must not be so disclosed if the director
12 determines that such disclosure would compromise any investigation or
13 litigation by any federal, state, or local government agency in
14 connection with the civil or criminal liability of the license
15 applicant, license holder, or another person, or that such disclosure
16 would identify a confidential informant, or that such disclosure is
17 contrary to any agreement entered into by the department that
18 provides for the reciprocal exchange of information with other
19 government agencies, which agreement requires confidentiality with
20 respect to such information unless such information is required to be
21 disclosed to the license applicant or license holder by the order of
22 any court;

23 (c) Publishing statistics so classified as to prevent the
24 identification of particular licensing information;

25 (d) Disclosing licensing information for official purposes only,
26 to the governor or attorney general, or to any state agency, or to
27 any committee or subcommittee of the legislature dealing with matters
28 of taxation, revenue, trade, commerce, the control of industry or the
29 professions, or licensing;

30 (e) Permitting the department's records to be audited and
31 examined by the proper state officer, his or her agents and
32 employees;

33 (f) Disclosing any licensing information to a peace officer as
34 defined in RCW 9A.04.110 or county prosecuting attorney, for official
35 purposes. The disclosure may be made only in response to a search
36 warrant, subpoena, or other court order, unless the disclosure is for
37 the purpose of criminal tax or license enforcement. A peace officer
38 or county prosecuting attorney who receives the licensing information
39 may disclose that licensing information only for use in the

1 investigation and a related court proceeding, or in the court
2 proceeding for which the licensing information originally was sought;

3 (g) Disclosing, in a manner that is not associated with other
4 licensing information, the name of a license applicant or license
5 holder, entity type, registered trade name, business address, mailing
6 address, unified business identifier number, list of licenses issued
7 to a person through the business licensing system established in this
8 chapter and their issuance and expiration dates, and the dates of
9 opening of a business. This subsection may not be construed as giving
10 authority to the department to give, sell, or provide access to any
11 list of persons for any commercial purpose;

12 (h) Disclosing licensing information that is also maintained by
13 another Washington state or local governmental agency as a public
14 record available for inspection and copying under the provisions of
15 chapter 42.56 RCW or is a document maintained by a court of record
16 and is not otherwise prohibited from disclosure;

17 (i) Disclosing any licensing information when the disclosure is
18 specifically authorized under any other section of the Revised Code
19 of Washington;

20 (j) Disclosing licensing information to the proper officer of the
21 licensing or tax department of any city, town, or county of this
22 state, for official purposes. If the licensing information does not
23 relate to a license issued by the city, town, or county requesting
24 the licensing information, disclosure may be made only if the laws of
25 the requesting city, town, or county grants substantially similar
26 privileges to the proper officers of this state; or

27 (k) Disclosing licensing information to the federal government
28 for official purposes.

29 (4) Notwithstanding anything to the contrary in this section, a
30 state agency or local government agency may disclose licensing
31 information relating to a license issued on its behalf by the
32 department pursuant to this chapter if the disclosure is authorized
33 by another statute, local law, or administrative rule.

34 (5) The department, any other state agency, or local government
35 may refuse to disclose licensing information that is otherwise
36 disclosable under subsection (3) of this section if such disclosure
37 would violate federal law or any information sharing agreement
38 between the state or local government and federal government.

39 (6) Any person acquiring knowledge of any licensing information
40 in the course of his or her employment with the department and any

1 person acquiring knowledge of any licensing information as provided
2 under subsection (3)(d), (e), (f), (j), or (k) of this section, who
3 discloses any such licensing information to another person not
4 entitled to knowledge of such licensing information under the
5 provisions of this section, is guilty of a misdemeanor. If the person
6 guilty of such violation is an officer or employee of the state, such
7 person must forfeit such office or employment and is incapable of
8 holding any public office or employment in this state for a period of
9 two years thereafter.

10 **Part IX**

11 **Background investigations**

12 **Sec. 901.** RCW 82.01.060 and 2011 c 298 s 36 are each amended to
13 read as follows:

14 The director of revenue, hereinafter in chapter 26, Laws of 1967
15 ex. sess. referred to as the director, through the department of
16 revenue, hereinafter in chapter 26, Laws of 1967 ex. sess. referred
17 to as the department, must:

18 (1) Assess and collect all taxes and administer all programs
19 relating to taxes which are the responsibility of the tax commission
20 at the time chapter 26, Laws of 1967 ex. sess. takes effect or which
21 the legislature may hereafter make the responsibility of the director
22 or of the department;

23 (2) Make, adopt and publish such rules as he or she may deem
24 necessary or desirable to carry out the powers and duties imposed
25 upon him or her or the department by the legislature. However, the
26 director may not adopt rules after July 23, 1995, that are based
27 solely on a section of law stating a statute's intent or purpose, on
28 the enabling provisions of the statute establishing the agency, or on
29 any combination of such provisions, for statutory authority to adopt
30 any rule;

31 (3) Rules adopted by the tax commission before July 23, 1995,
32 remain in force until such time as they may be revised or rescinded
33 by the director;

34 (4) Provide by general regulations for an adequate system of
35 departmental review of the actions of the department or of its
36 officers and employees in the assessment or collection of taxes;

37 (5) Maintain a tax research section with sufficient technical,
38 clerical and other employees to conduct constant observation and

1 investigation of the effectiveness and adequacy of the revenue laws
2 of this state and of the sister states in order to assist the
3 governor, the legislature and the director in estimation of revenue,
4 analysis of tax measures, and determination of the administrative
5 feasibility of proposed tax legislation and allied problems;

6 (6) Recommend to the governor such amendments, changes in, and
7 modifications of the revenue laws as seem proper and requisite to
8 remedy injustice and irregularities in taxation, and to facilitate
9 the assessment and collection of taxes in the most economical manner;

10 (7) Provide the opportunity for any person feeling aggrieved by
11 any action taken against the person by the department in the
12 administration of chapters 19.02, 19.80, and 59.30 RCW to request a
13 review of the department's action. Such review may be conducted as a
14 brief adjudicative proceeding under RCW 34.05.485 through 34.05.494;
15 and

16 (8)(a) Establish background investigation policies applicable to
17 those current and prospective department employees and contractors
18 that are or may be authorized by the department to access federal tax
19 information. Such policies must require a criminal history record
20 check through the Washington state patrol criminal identification
21 system and through the federal bureau of investigation, at the
22 expense of the department. The record check must include a
23 fingerprint check using a complete Washington state criminal
24 identification fingerprint card, which must be forwarded by the
25 Washington state patrol to the federal bureau of investigation. The
26 department's background investigation policies must also satisfy any
27 specific background investigation standards established by the
28 internal revenue service.

29 (b) Information received by the department pursuant to this
30 subsection may be used only for the purposes of making, supporting,
31 or defending decisions regarding the appointment, hiring, or
32 retention of persons, or for complying with any requirements from the
33 internal revenue service. Further dissemination or use of the
34 information is prohibited, notwithstanding any other provision of
35 law.

36 **Part X**

37 **Revising the date by which the department of revenue is required to**
38 **provide estimates of the amount of public forestland that is**
39 **available for timber harvesting**

1 **Sec. 1001.** RCW 84.33.089 and 2004 c 177 s 6 are each amended to
2 read as follows:

3 (1) The department (~~shall~~) must estimate the number of acres of
4 public forestland that are available for timber harvesting. The
5 department (~~shall~~) must provide the estimates for each county and
6 for each taxing district within each county by (~~August 30th~~)
7 October 1st of each year except that the department may authorize a
8 county, at the county's option, to make its own estimates for public
9 forestland in that county. In estimating the number of acres, the
10 department (~~shall~~) must use the best available information to
11 include public land comparable to private land that qualifies as
12 forestland for assessment purposes and exclude other public lands.
13 The department is not required to update the estimates unless
14 improved information becomes available. The department of natural
15 resources (~~shall~~) must assist the department with these
16 determinations by providing any data and information in the
17 possession of the department of natural resources on public
18 forestlands, broken out by county and legal description, including a
19 detailed map of each county showing the location of the described
20 lands. The data and information (~~shall~~) must be provided to the
21 department by July 15th of each year. In addition, the department may
22 contract with other parties to provide data or assistance necessary
23 to implement this section.

24 (2) To accommodate the phase-in of the county forest excise tax
25 on the harvest of timber from public lands as provided in RCW
26 84.33.051, the department (~~shall~~) must adjust its actual estimates
27 of the number of acres of public forestland that are available for
28 timber harvesting. The department (~~shall~~) must reduce its estimates
29 for the following years by the following amounts:

- 30 (a) For calendar year 2005, 70 percent;
- 31 (b) For calendar year 2006, 62.5 percent;
- 32 (c) For calendar year 2007, 55 percent;
- 33 (d) For calendar year 2008, 47.5 percent;
- 34 (e) For calendar year 2009, 40 percent;
- 35 (f) For calendar year 2010, 32.5 percent;
- 36 (g) For calendar year 2011, 22.5 percent;
- 37 (h) For calendar year 2012, 15 percent;
- 38 (i) For calendar year 2013, 7.5 percent; and

1 (j) For calendar year 2014 and thereafter, the department
2 (~~shall~~) may not reduce its estimates of the number of acres of
3 public forestland that are available for timber harvesting.

4 **Part XI**
5 **Electronic communication of confidential property tax information**

6 NEW SECTION. **Sec. 1101.** A new section is added to chapter 84.08
7 RCW to read as follows:

8 (1) The department may provide electronically any assessment,
9 notice, or other information that is subject to the confidentiality
10 provisions of RCW 84.08.210 or 84.40.340, to any person authorized to
11 receive the information.

12 (2) The department must use methods reasonably designed to
13 protect information provided electronically as authorized in
14 subsection (1) of this section from unauthorized disclosure. However,
15 the provisions of this subsection (2) may be waived by a taxpayer.
16 The waiver must be in writing and may be provided to the department
17 electronically. A waiver continues until revoked in writing by the
18 taxpayer. Such revocation may be provided to the department
19 electronically in a manner provided or approved by the department.

20 **Part XII**
21 **Miscellaneous**

22 NEW SECTION. **Sec. 1201.** RCW 82.32.805 and 82.32.808 do not
23 apply to any provisions of this act.

24 NEW SECTION. **Sec. 1202.** (1) Except as otherwise provided in
25 this section, part I of this act takes effect January 1, 2018.

26 (2) Section 102 of this act takes effect April 1, 2018.

27 NEW SECTION. **Sec. 1203.** Part V of this act takes effect January
28 1, 2018.

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