

RCW 82.04.290 Tax on service and other activities. (1) Upon every person engaging within this state in the business of providing qualifying international investment management services, as to such persons, the amount of tax with respect to such business is equal to the gross income or gross proceeds of sales of the business multiplied by a rate of 0.275 percent.

(2) (a) Upon every person engaging within this state in any business activity other than or in addition to an activity taxed explicitly under another section in this chapter or subsection (1) or (3) of this section; as to such persons the amount of tax on account of such activities is equal to the gross income of the business multiplied by the rate of:

(i) 1.75 percent; or

(ii) 1.5 percent for:

(A) Any person subject to the surcharge imposed under RCW 82.04.299;

(B) Any person whose gross income of the business subject to the tax imposed under this subsection (2), for the immediately preceding calendar year, was less than one million dollars, unless (I) the person is affiliated with one or more other persons, and (II) the aggregate gross income of the business subject to the tax imposed under this subsection (2) for all affiliated persons was greater than or equal to one million dollars for the immediately preceding calendar year; and

(C) Hospitals as defined in RCW 70.41.020, including any hospital that comes within the scope of chapter 71.12 RCW if the hospital is also licensed under chapter 70.41 RCW. This subsection (2) (a) (ii) (C) must not be construed as modifying RCW 82.04.260(10).

(b) This subsection (2) includes, among others, and without limiting the scope hereof (whether or not title to materials used in the performance of such business passes to another by accession, confusion or other than by outright sale), persons engaged in the business of rendering any type of service which does not constitute a "sale at retail" or a "sale at wholesale." The value of advertising, demonstration, and promotional supplies and materials furnished to an agent by his or her principal or supplier to be used for informational, educational, and promotional purposes is not considered a part of the agent's remuneration or commission and is not subject to taxation under this section.

(c) 14.3 percent of the revenues collected under (a) (i) of this subsection (2) must be deposited into the workforce education investment account created in RCW 43.79.195.

(d) (i) To aid in the effective administration of this subsection (2), the department may require a person claiming to be subject to the 1.5 percent tax rate under (a) (ii) (B) of this subsection (2) to identify all of the person's affiliates, including their department tax registration number or unified business identifier number, as may be applicable, or to certify that the person is not affiliated with any other person. Requests under this subsection (2) (d) (i) must be in writing and may be made electronically.

(ii) If the department establishes, by clear, cogent, and convincing evidence, that a person, with intent to evade the additional taxes due under the 1.75 percent tax rate in (a) (i) of this subsection (2), failed to provide the department with complete and accurate information in response to a written request under (d) (i) of this subsection (2) within thirty days of such request, the person is ineligible for the 1.5 percent tax rate in (a) (ii) of this subsection

(2) for the entire current calendar year and the following four calendar years. However, the department must waive the provisions of this subsection (2)(d)(ii) for any tax reporting period that the person is otherwise eligible for the 1.5 percent tax rate in (a)(ii) of this subsection (2) if (A) the department has not previously determined that the person failed to fully comply with (d)(i) of this subsection (2), and (B) within thirty days of the notice of additional tax due as a result of the person's failure to fully comply with (d)(i) of this subsection (2) the department determines that the person has come into full compliance with (d)(i) of this subsection (2). This subsection (2)(d) applies only with respect to persons claiming entitlement to the 1.5 percent tax rate solely by reason of (a)(ii)(B) of this subsection (2).

(e) For the purposes of (a)(ii)(B) of this subsection (2), if a taxpayer is subject to the reconciliation provisions of RCW 82.04.462(4), and calculates gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year, or aggregate gross income of the business subject to the tax imposed under this subsection (2) for the immediately preceding calendar year for all affiliated persons, based on incomplete information, the taxpayer must correct the reporting for the current calendar year when complete information for the immediately preceding calendar year is available.

(f) For purposes of this subsection (2), the definitions in this subsection (2)(f) apply:

(i) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person; and

(ii) "Control" means the possession, directly or indirectly, of more than eighty percent of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.

(3)(a) Until July 1, 2040, upon every person engaging within this state in the business of performing aerospace product development for others, as to such persons, the amount of tax with respect to such business is equal to the gross income of the business multiplied by a rate of 0.9 percent.

(b) A person reporting under the tax rate provided in this subsection (3) must file a complete annual report with the department under RCW 82.32.534.

(c) "Aerospace product development" has the meaning as provided in RCW 82.04.4461. [2020 c 2 s 3; 2019 c 426 s 2; 2014 c 97 s 404; (2014 c 97 s 403 expired July 9, 2014); 2013 3rd sp.s. c 2 s 8; 2013 c 23 s 314; 2011 c 174 s 101; 2008 c 81 s 6; 2005 c 369 s 8; 2004 c 174 s 2; 2003 c 343 s 2; 2001 1st sp.s. c 9 s 6; (2001 1st sp.s. c 9 s 4 expired July 1, 2001). Prior: 1998 c 343 s 4; 1998 c 331 s 2; 1998 c 312 s 8; 1998 c 308 s 5; 1998 c 308 s 4; 1997 c 7 s 2; 1996 c 1 s 2; 1995 c 229 s 3; 1993 sp.s. c 25 s 203; 1985 c 32 s 3; 1983 2nd ex.s. c 3 s 2; 1983 c 9 s 2; 1983 c 3 s 212; 1971 ex.s. c 281 s 8; 1970 ex.s. c 65 s 4; 1969 ex.s. c 262 s 39; 1967 ex.s. c 149 s 14; 1963 ex.s. c 28 s 2; 1961 c 15 s 82.04.290; prior: 1959 ex.s. c 5 s 5; 1955 c 389 s 49; prior: 1953 c 195 s 2; 1950 ex.s. c 5 s 1, part; 1949 c 228 s 1, part; 1943 c 156 s 1, part; 1941 c 178 s 1, part; 1939 c 225 s 1, part; 1937 c 227 s 1, part; 1935 c 180 s 4, part; Rem. Supp. 1949 s 8370-4, part.]

Application—2020 c 2 s 3: "Section 3 of this act applies beginning with gross income of the business, as defined in RCW 82.04.080, received or accrued by taxpayers, on or after April 1, 2020." [2020 c 2 s 9.]

Tax preference performance statement exemption—Automatic expiration date exemption—2020 c 2: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act." [2020 c 2 s 6.]

Effective dates—2020 c 2: "(1) Except as otherwise provided in this section, this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 10, 2020].

(2) Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2020." [2020 c 2 s 7.]

Findings—Intent—2019 c 426 ss 2 and 3: "In 1995, the legislature enacted a business and occupation tax rate for persons providing international investment management services. The legislature finds that the original intent of this tax rate was to reduce a competitive disadvantage for a limited number of firms providing international investment management services. The fiscal note for the bill stated that "only a very limited taxpayer group would benefit from the reduced rate." The legislature further finds that as a result of the adoption of economic nexus; a single factor, market-based apportionment methodology; and significant ambiguity in the statute governing the qualifications for the tax rate; a much larger number of businesses are claiming the tax rate than was contemplated in 1995. Therefore, the legislature intends in sections 2 and 3 of this act to clarify the scope of activities and persons eligible for the tax rate to more closely align with the legislature's original intent." [2019 c 426 s 1.]

Automatic expiration date and tax preference performance statement exemption—2019 c 426 ss 2 and 3: "The provisions of RCW 82.32.805 and 82.32.808 do not apply to sections 2 and 3 of this act." [2019 c 426 s 9.]

Effective date—2019 c 426 ss 2 and 3: "Sections 2 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2019." [2019 c 426 s 10.]

Contingent expiration date—2014 c 97 ss 401 and 403: See note following RCW 82.04.250.

Contingent effective date—2013 3rd sp.s. c 2: See RCW 82.32.850.

Findings—Intent—2013 3rd sp.s. c 2: See note following RCW 82.32.850.

Findings—Savings—Effective date—2008 c 81: See notes following RCW 82.08.975.

Findings—Intent—Severability—Effective date—2005 c 369: See notes following RCW 41.05.750.

Effective date—2004 c 174: See note following RCW 82.04.2908.

Expiration dates—2001 1st sp.s. c 9: "(1) Sections 2 and 4 of this act expire July 1, 2001.

(2) Section 5 of this act expires July 1, 2003.

(3) Section 8 of this act expires July 22, 2001." [2001 1st sp.s. c 9 s 10.]

Effective dates—2001 1st sp.s. c 9: See note following RCW 82.04.298.

Effective date—1998 c 343: See note following RCW 82.04.272.

Effective date—1998 c 331: See note following RCW 82.04.2907.

Effective date—Savings—1998 c 312: See notes following RCW 82.04.332.

Effective dates—1998 c 308: See note following RCW 82.04.050.

Savings—Effective date—1997 c 7: See notes following RCW 82.04.255.

Effective date—1996 c 1: See note following RCW 82.04.255.

Effective date—1995 c 229: See note following RCW 82.04.293.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Construction—Severability—Effective date—1983 c 9: See notes following RCW 82.04.255.