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HOUSE BILL 2592

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State of Washington

54th Legislature

1996 Regular Session

By Representatives B. Thomas, Morris and Boldt; by request of Department of Revenue

Read first time 01/15/96. Referred to Committee on Finance.

1 AN ACT Relating to penalty and interest administration of the  
2 department of revenue; amending RCW 82.32.050, 82.32.190, 82.32.200,  
3 82.32.210, 82.45.100, 82.45.150, 82.24.120, 82.24.180, 82.24.270,  
4 82.24.280, 63.29.340, 54.28.060, 83.100.070, 83.100.130, 82.32.090,  
5 54.28.040, 82.32.105, and 82.12.045; adding a new section to chapter  
6 83.100 RCW; creating a new section; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that a consistent  
9 application of interest and penalties is in the best interest of the  
10 residents of the state of Washington. The legislature also finds that  
11 the goal of the department of revenue's interest and penalty system  
12 should be to encourage taxpayers to voluntarily comply with  
13 Washington's tax code in a timely manner. The administration of tax  
14 programs requires that there be consequences for those taxpayers who do  
15 not timely satisfy their reporting and tax obligations, but these  
16 consequences should not be so severe as to discourage taxpayers from  
17 voluntarily satisfying their tax obligations.

1 It is the intent of the legislature that, to the extent possible,  
2 a single interest and penalty system apply to all tax programs  
3 administered by the department of revenue.

4 **Sec. 2.** RCW 82.32.050 and 1992 c 169 s 1 are each amended to read  
5 as follows:

6 (1) If upon examination of any returns or from other information  
7 obtained by the department it appears that a tax or penalty has been  
8 paid less than that properly due, the department shall assess against  
9 the taxpayer such additional amount found to be due and shall add  
10 thereto interest at the rate of nine percent per annum from the last  
11 day of the year in which the deficiency is incurred until the date of  
12 payment for tax liabilities arising before January 1, 1992. For tax  
13 liabilities arising after December 31, 1991, until the date of payment,  
14 the rate of interest shall be variable and computed as provided in  
15 subsection (2) of this section. The rate so computed shall be adjusted  
16 on the first day of January of each year. The department shall notify  
17 the taxpayer by mail of the additional amount and the same shall become  
18 due and shall be paid within thirty days from the date of the notice,  
19 or within such further time as the department may provide.

20 (2) For the purposes of this section, the rate of interest to be  
21 charged to the taxpayer shall be an average of the federal short-term  
22 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.  
23 The rate shall be computed by taking an arithmetical average to the  
24 nearest percentage point of the federal short-term rate, compounded  
25 annually, for the months of January, April, July, and October of the  
26 immediately preceding calendar year as published by the United States  
27 secretary of the treasury.

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

36 (4) For the purposes of this section, "return" means any document  
37 a person is required by the state of Washington to file to satisfy or

1 establish a tax or fee obligation that is administered or collected by  
2 the department of revenue and that has a statutorily defined due date.

3 **Sec. 3.** RCW 82.32.190 and 1971 ex.s. c 299 s 21 are each amended  
4 to read as follows:

5 (1) The department, by its order, may hold in abeyance the  
6 collection of tax from any taxpayer or any group of taxpayers when a  
7 question bearing on their liability for tax hereunder is pending before  
8 the courts(~~(:—PROVIDED, That)~~). The department may impose such  
9 conditions as may be deemed just and equitable and shall require the  
10 payment of interest at the rate of three-quarters of one percent of the  
11 amount of the tax for each thirty days or portion thereof from the date  
12 upon which such tax became due until the date of payment.

13 (2) Interest imposed under this section for periods after the  
14 effective date of this act shall be computed on a daily basis at the  
15 rate as computed under RCW 82.32.050(2). The rate so computed shall be  
16 adjusted on the first day of January of each year. Interest for taxes  
17 held in abeyance under this section before the effective date of this  
18 act but outstanding after the effective date of this act shall not be  
19 recalculated but shall remain at three-quarters of one percent per each  
20 thirty days or portion thereof.

21 **Sec. 4.** RCW 82.32.200 and 1975 1st ex.s. c 278 s 83 are each  
22 amended to read as follows:

23 (1) When any assessment or additional assessment has been made, the  
24 taxpayer may obtain a stay of collection, under such circumstances and  
25 for such periods as the department of revenue may by general regulation  
26 provide, of the whole or any part thereof, by filing with the  
27 department a bond in an amount, not exceeding twice the amount on which  
28 stay is desired, and with sureties as the department deems necessary,  
29 conditioned for the payment of the amount of the assessments,  
30 collection of which is stayed by the bond, together with the interest  
31 thereon at the rate of one percent of the amount of such assessment for  
32 each thirty days or portion thereof from the (~~due date thereof until~~  
33 ~~paid~~) date the bond is filed until the date of payment.

34 (2) Interest imposed under this section after the effective date of  
35 this act shall be computed on a daily basis on the amount of tax at the  
36 rate as computed under RCW 82.32.050(2). The rate so computed shall be  
37 adjusted on the first day of January of each year. Interest for bonds

1 filed before the effective date of this act but outstanding after the  
2 effective date of this act shall not be recalculated but shall remain  
3 at one percent per each thirty days or portion thereof.

4 **Sec. 5.** RCW 82.32.210 and 1987 c 405 s 15 are each amended to read  
5 as follows:

6 (1) If any fee, tax, increase, or penalty or any portion thereof is  
7 not paid within fifteen days after it becomes due, the department of  
8 revenue may issue a warrant under its official seal in the amount of  
9 such unpaid sums, together with interest thereon at the rate of one  
10 percent of the amount of such warrant for each thirty days or portion  
11 thereof (~~after the date of such warrant~~) from the date the warrant is  
12 issued until the date of payment. If, however, the department of  
13 revenue believes that a taxpayer is about to cease business, leave the  
14 state, or remove or dissipate the assets out of which fees, taxes or  
15 penalties might be satisfied and that any tax or penalty will not be  
16 paid when due, it may declare the fee, tax or penalty to be immediately  
17 due and payable and may issue a warrant immediately.

18 (2) Interest imposed under this section after the effective date of  
19 this act shall be computed on a daily basis on the amount of  
20 outstanding tax or fee at the rate as computed under RCW 82.32.050(2).  
21 The rate so computed shall be adjusted on the first day of January of  
22 each year. As used in this subsection, "fee" does not include  
23 administrative filing fees such as court filing fees and warrant fees.  
24 Interest for warrants issued before the effective date of this act but  
25 outstanding after the effective date of this act shall not be  
26 recalculated but shall remain at one percent per each thirty days or  
27 portion thereof.

28 (3) The department shall file a copy of the warrant with the clerk  
29 of the superior court of any county of the state in which real and/or  
30 personal property of the taxpayer may be found. Upon filing, the clerk  
31 shall enter in the judgment docket, the name of the taxpayer mentioned  
32 in the warrant and in appropriate columns the amount of the fee, tax or  
33 portion thereof and any increases and penalties for which the warrant  
34 is issued and the date when the copy is filed, and thereupon the amount  
35 of the warrant so docketed shall become a specific lien upon all goods,  
36 wares, merchandise, fixtures, equipment, or other personal property  
37 used in the conduct of the business of the taxpayer against whom the  
38 warrant is issued, including property owned by third persons who have

1 a beneficial interest, direct or indirect, in the operation of the  
2 business, and no sale or transfer of the personal property in any way  
3 affects the lien.

4 (4) The lien shall not be superior, however, to bona fide interests  
5 of third persons which had vested prior to the filing of the warrant  
6 when the third persons do not have a beneficial interest, direct or  
7 indirect, in the operation of the business, other than the securing of  
8 the payment of a debt or the receiving of a regular rental on  
9 equipment(~~(:— PROVIDED, HOWEVER, That)~~). The phrase "bona fide  
10 interests of third persons" does not include any mortgage of real or  
11 personal property or any other credit transaction that results in the  
12 mortgagee or the holder of the security acting as trustee for unsecured  
13 creditors of the taxpayer mentioned in the warrant who executed the  
14 chattel or real property mortgage or the document evidencing the credit  
15 transaction.

16 (5) The amount of the warrant so docketed shall thereupon also  
17 become a lien upon the title to and interest in all other real and  
18 personal property of the taxpayer against whom it is issued the same as  
19 a judgment in a civil case duly docketed in the office of the clerk.  
20 The warrant so docketed shall be sufficient to support the issuance of  
21 writs of garnishment in favor of the state in the manner provided by  
22 law in the case of judgments wholly or partially unsatisfied.

23 **Sec. 6.** RCW 82.45.100 and 1993 sp.s. c 25 s 507 are each amended  
24 to read as follows:

25 (1) Payment of the tax imposed under this chapter is due and  
26 payable immediately at the time of sale, and if not paid within  
27 ((~~thirty days~~)) one month thereafter shall bear interest at the rate of  
28 one percent per month from the time of sale until the date of payment.

29 (2) Interest imposed under this section for periods after the  
30 effective date of this act shall be computed on a daily basis on the  
31 amount of tax at the rate as computed under RCW 82.32.050(2). The rate  
32 so computed shall be adjusted on the first day of January of each year.

33 (3) In addition to the interest described in subsections (1) and  
34 (2) of this section, if the payment of any tax is not received by the  
35 county treasurer or the department of revenue, as the case may be,  
36 within ((~~thirty days~~)) one month of the date due, there shall be  
37 assessed a penalty of five percent of the amount of the tax; if the tax  
38 is not received within ((~~sixty days~~)) two months of the date due, there

1 shall be assessed a total penalty of ten percent of the amount of the  
2 tax; and if the tax is not received within (~~ninety days~~) three months  
3 of the date due, there shall be assessed a total penalty of twenty  
4 percent of the amount of the tax. The payment of the penalty described  
5 in this subsection shall be collectible from the seller only, and RCW  
6 82.45.070 does not apply to the penalties described in this subsection.

7 (~~(3)~~) (4) If the tax imposed under this chapter is not received  
8 by the due date, the transferee shall be personally liable for the tax,  
9 along with any interest as provided in subsection (1) of this section,  
10 unless:

11 (a) An instrument evidencing the sale is recorded in the official  
12 real property records of the county in which the property conveyed is  
13 located; or

14 (b) Either the transferor or transferee notifies the department of  
15 revenue in writing of the occurrence of the sale within thirty days  
16 following the date of the sale.

17 (~~(4)~~) (5) If upon examination of any affidavits or from other  
18 information obtained by the department or its agents it appears that  
19 all or a portion of the tax is unpaid, the department shall assess  
20 against the taxpayer the additional amount found to be due plus  
21 interest and penalties as provided in subsections (1) (~~and~~), (2), and  
22 (3) of this section. (~~If the department finds that all or any part of~~  
23 ~~the deficiency resulted from an intent to evade the tax payable under~~  
24 ~~this chapter, an additional penalty of fifty percent of the additional~~  
25 ~~tax found to be due shall be added.)) The department shall notify the  
26 taxpayer by mail of the additional amount and the same shall become due  
27 and shall be paid within thirty days from the date of the notice, or  
28 within such further time as the department may provide.~~

29 (~~(5)~~) (6) No assessment or refund may be made by the department  
30 more than four years after the date of sale except upon a showing of:

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

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

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

36 (~~(6)~~) (7) Penalties collected (~~pursuant to~~) under subsection  
37 (~~(2)~~) (3) of this section and RCW 82.32.090 (2) through (7) shall be  
38 deposited in the housing trust fund as described in chapter 43.185 RCW.

1       **Sec. 7.** RCW 82.45.150 and 1994 c 137 s 1 are each amended to read  
2 as follows:

3       All of chapter 82.32 RCW, except RCW 82.32.030, 82.32.050,  
4 82.32.140, ~~((and)) 82.32.270,~~ and ~~((except for the penalties and the~~  
5 ~~limitations thereon imposed by RCW)) 82.32.090(1) and (8),~~ applies to  
6 the tax imposed by this chapter, in addition to any other provisions of  
7 law for the payment and enforcement of the tax imposed by this chapter.  
8 The department of revenue shall by rule provide for the effective  
9 administration of this chapter. The rules shall prescribe and furnish  
10 a real estate excise tax affidavit form verified by both the seller and  
11 the buyer, or agents of each, to be used by each county, or the  
12 department, as the case may be, in the collection of the tax imposed by  
13 this chapter, except that an affidavit given in connection with grant  
14 of an easement or right of way to a gas, electrical, or  
15 telecommunications company, as defined in RCW 80.04.010, or to a public  
16 utility district or cooperative that distributes electricity, need be  
17 verified only on behalf of the company, district, or cooperative. The  
18 department of revenue shall annually conduct audits of transactions and  
19 affidavits filed under this chapter.

20       **Sec. 8.** RCW 82.24.120 and 1995 c 278 s 8 are each amended to read  
21 as follows:

22       (1) If any person, subject to the provisions of this chapter or any  
23 rules adopted by the department of revenue under authority hereof, is  
24 found to have failed to affix the stamps required, or to have them  
25 affixed as herein provided, or to pay any tax due hereunder, or to have  
26 violated any of the provisions of this chapter or rules adopted by the  
27 department of revenue in the administration hereof, there shall be  
28 assessed and collected from such person, in addition to any tax that  
29 may be found due, a remedial penalty equal to the greater of ten  
30 dollars per package of unstamped cigarettes or two hundred fifty  
31 dollars, plus interest ~~((thereon))~~ on the amount of the tax at the rate  
32 as computed under RCW 82.32.050(2) from the date the tax became due  
33 until the date of payment, and upon notice mailed to the last known  
34 address of the person. The amount shall become due and payable in  
35 thirty days from the date of the notice. If the amount remains unpaid,  
36 the department or its duly authorized agent may make immediate demand  
37 upon such person for the payment of all such taxes, penalties, and  
38 interest.

1 (2) The department, for good reason shown, may (~~remit~~) waive or  
2 cancel all or any part of penalties imposed, but the taxpayer must pay  
3 all taxes due and interest thereon, at the rate as computed under RCW  
4 82.32.050(2) from the date the tax became due until the date of  
5 payment.

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

9 (4) This section does not apply to taxes or tax increases due under  
10 RCW 82.24.270 and 82.24.280.

11 **Sec. 9.** RCW 82.24.180 and 1990 c 267 s 2 are each amended to read  
12 as follows:

13 (1) The department of revenue may return any property seized under  
14 the provisions of this chapter when it is shown that there was no  
15 intention to violate the provisions thereof.

16 (2) When any property is returned under this section, the  
17 department may return such goods to the parties from whom they were  
18 seized if and when such parties affix the proper amount of stamps  
19 thereto, and pay to the department as penalty an amount equal to the  
20 greater of ten dollars per package of unstamped cigarettes or two  
21 hundred fifty dollars, and interest (~~thereon at the rate of one~~  
22 ~~percent for each thirty days or portion thereof~~) on the amount of the  
23 tax at the rate as computed under RCW 82.32.050(2) from the date the  
24 tax became due until the date of payment, and in such cases, no  
25 advertisement shall be made or notices posted in connection with said  
26 seizure.

27 **Sec. 10.** RCW 82.24.270 and 1995 c 278 s 12 are each amended to  
28 read as follows:

29 (1) All cigarettes taxed under this chapter that are given away for  
30 advertising or other purposes are not required to have the state tax  
31 stamp affixed. Instead, the manufacturer of the cigarettes shall pay  
32 the tax on a monthly tax return to be supplied by the department.

33 (2) The tax is due on or before the twenty-fifth day of the month  
34 following the month in which the taxable activities, that is the  
35 providing of cigarette samples, occur. If not paid by the due date,  
36 interest applies to any unpaid tax (~~or penalty~~). Interest shall be

1 calculated at the rate as computed under RCW 82.32.050(2) from the date  
2 the tax became due until the date of payment.

3 (3) If upon examination of any returns or from other information  
4 obtained by the department it appears that a tax or penalty has been  
5 paid less than that properly due, the department shall assess against  
6 the taxpayer the additional amount found to be due. The department  
7 shall notify the taxpayer by mail of the additional amount due,  
8 including any applicable penalties and interest. The taxpayer shall  
9 pay the additional amount within thirty days from the date of the  
10 notice, or within such further time as the department may provide.

11 (4) All the cigarettes must evidence the payment of the tax by  
12 having printed on their packages wording to the following effect:  
13 "Complimentary, not for sale, all applicable state taxes paid by  
14 manufacturer."

15 (5) All of chapter 82.32 RCW applies to taxes due under this  
16 section except: RCW 82.32.050(1) and 82.32.270.

17 **Sec. 11.** RCW 82.24.280 and 1995 c 278 s 13 are each amended to  
18 read as follows:

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

23 (2) If not paid by the due date, interest shall apply to any unpaid  
24 tax ((~~or penalty~~)). Interest shall be calculated at the rate as  
25 computed under RCW 82.32.050(2) from the date the tax became due until  
26 the date of payment.

27 (3) If upon examination of any returns or from other information  
28 obtained by the department it appears that a tax or penalty has been  
29 paid less than that properly due, the department shall assess against  
30 the taxpayer such additional amount found to be due. The department  
31 shall notify the taxpayer by mail of the additional amount due,  
32 including any applicable penalties and interest. The taxpayer shall  
33 pay the additional amount within thirty days from the date of the  
34 notice, or within such further time as the department may provide.

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

1       **Sec. 12.** RCW 63.29.340 and 1983 c 179 s 34 are each amended to  
2 read as follows:

3       (1) A person who fails to pay or deliver property within the time  
4 prescribed by this chapter shall be required to pay to the department  
5 interest at the (~~(maximum rate permitted under RCW 19.52.020)~~) rate as  
6 computed under RCW 82.32.050(2) from the date the property should have  
7 been paid or delivered until the property is paid or delivered.

8       (2) A person who willfully fails to render any report, to pay or  
9 deliver property, or to perform other duties required under this  
10 chapter shall pay a civil penalty of one hundred dollars for each day  
11 the report is withheld or the duty is not performed, but not more than  
12 five thousand dollars, plus one hundred percent of the value of the  
13 property which should have been reported, paid or delivered.

14       (3) A person who willfully refuses after written demand by the  
15 department to pay or deliver property to the department as required  
16 under this chapter or who enters into a contract to avoid the duties of  
17 this chapter is guilty of a gross misdemeanor and upon conviction may  
18 be punished by a fine of not more than one thousand dollars or  
19 imprisonment for not more than one year, or both.

20       **Sec. 13.** RCW 54.28.060 and 1957 c 278 s 6 are each amended to read  
21 as follows:

22       Interest at the rate (~~(of six percent per annum)~~) as computed under  
23 RCW 82.32.050(2) shall be added to the tax hereby imposed (~~(after)~~)  
24 from the due date until the date of payment. The tax shall constitute  
25 a debt to the state and may be collected as such.

26       **Sec. 14.** RCW 83.100.070 and 1988 c 64 s 8 are each amended to read  
27 as follows:

28       (1) Any tax due under this chapter which is not paid by the due  
29 date under RCW 83.100.060(1) shall bear interest at the rate of twelve  
30 percent per annum from the date the tax is due until (~~(paid)~~) the date  
31 of payment.

32       (2) Interest imposed under this section for periods after the  
33 effective date of this act shall be computed at the rate as computed  
34 under RCW 82.32.050(2). The rate so computed shall be adjusted on the  
35 first day of January of each year.

36       (3) If the Washington return is not filed when due under RCW  
37 83.100.050, then the person required to file the federal return shall

1 pay, in addition to interest, a penalty equal to five percent of the  
2 tax due for each month after the date the return is due until filed.  
3 No penalty may exceed twenty-five percent of the tax.

4 **Sec. 15.** RCW 83.100.130 and 1988 c 64 s 12 are each amended to  
5 read as follows:

6 (1) Whenever the department determines that a person required to  
7 file the federal return has overpaid the tax due under this chapter,  
8 the department shall refund the amount of the overpayment, together  
9 with interest at the then existing rate under RCW 83.100.070(1). If  
10 the application for refund, with supporting documents, is filed within  
11 four months after an adjustment or final determination of federal tax  
12 liability, the department shall pay interest until the date the refund  
13 is mailed. If the application for refund, with supporting documents,  
14 is filed after four months after the adjustment or final determination,  
15 the department shall pay interest only until the end of the four-month  
16 period.

17 (2) Interest refunded under this section for periods after the  
18 effective date of this act shall be computed on a daily basis at the  
19 rate as computed under RCW 82.32.050(2) less one percentage point, and  
20 shall be refunded from the date of overpayment until the date the  
21 refund is mailed. The rate so computed shall be adjusted on the first  
22 day of January of each year.

23 **Sec. 16.** RCW 82.32.090 and 1992 c 206 s 3 are each amended to read  
24 as follows:

25 (1) If payment of any tax due on a return to be filed by a taxpayer  
26 is not received by the department of revenue by the due date, there  
27 shall be assessed a penalty of five percent of the amount of the tax;  
28 and if the tax is not received (~~within thirty days after~~) on or  
29 before the last day of the month following the due date, there shall be  
30 assessed a total penalty of ten percent of the amount of the tax; and  
31 if the tax is not received (~~within sixty days after~~) on or before the  
32 last day of the second month following the due date, there shall be  
33 assessed a total penalty of twenty percent of the amount of the tax.  
34 No penalty so added shall be less than five dollars.

35 (2) If payment of any tax assessed by the department of revenue is  
36 not received by the department by the due date specified in the notice,  
37 or any extension thereof, the department shall add a penalty of ten

1 percent of the amount of the additional tax found due. No penalty so  
2 added shall be less than five dollars.

3 (3) If a warrant be issued by the department of revenue for the  
4 collection of taxes, increases, and penalties, there shall be added  
5 thereto a penalty of five percent of the amount of the tax, but not  
6 less than ten dollars.

7 (4) If the department finds that all or any part of a deficiency  
8 resulted from the disregard of specific written instructions as to  
9 reporting or tax liabilities, the department shall add a penalty of ten  
10 percent of the amount of the additional tax found due because of the  
11 failure to follow the instructions. A taxpayer disregards specific  
12 written instructions when the department of revenue has informed the  
13 taxpayer in writing of the taxpayer's tax obligations and the taxpayer  
14 fails to act in accordance with those instructions unless the  
15 department has not issued final instructions because the matter is  
16 under appeal pursuant to this chapter or departmental regulations. The  
17 department shall not assess the penalty under this section upon any  
18 taxpayer who has made a good faith effort to comply with the specific  
19 written instructions provided by the department to that taxpayer.  
20 Specific written instructions may be given as a part of a tax  
21 assessment, audit, determination, or closing agreement, provided that  
22 such specific written instructions shall apply only to the taxpayer  
23 addressed or referenced on such documents. Any specific written  
24 instructions by the department of revenue shall be clearly identified  
25 as such and shall inform the taxpayer that failure to follow the  
26 instructions may subject the taxpayer to the penalties imposed by this  
27 subsection.

28 (5) If the department finds that all or any part of the deficiency  
29 resulted from an intent to evade the tax payable hereunder, a further  
30 penalty of fifty percent of the additional tax found to be due shall be  
31 added.

32 (6) The aggregate of penalties imposed under subsections (1), (2),  
33 and (3) of this section (~~for failure to pay a tax due on a return by~~  
34 ~~the due date, late payment of any tax, increase, or penalty, or~~  
35 ~~issuance of a warrant~~)) shall not exceed thirty-five percent of the tax  
36 due, or twenty dollars, whichever is greater. This subsection does not  
37 prohibit or restrict the application of other penalties authorized by  
38 law.

1 (7) The department of revenue may not impose both the evasion  
2 penalty and the penalty for disregarding specific written instructions  
3 on the same tax found to be due.

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

8 **Sec. 17.** RCW 54.28.040 and 1982 1st ex.s. c 35 s 20 are each  
9 amended to read as follows:

10 ~~((Prior to))~~ (1) Before May 1st, the department of revenue shall  
11 compute the tax imposed by this chapter for the last preceding calendar  
12 year and notify the district of the amount thereof, which shall be  
13 payable on or before the following June 1st.

14 (2) If payment of any tax is not received by the department on or  
15 before the due date, there shall be assessed a penalty of five percent  
16 of the amount of the tax; if the tax is not received within one month  
17 of the due date, there shall be assessed a total penalty of ten percent  
18 of the amount of the tax; and if the tax is not received within two  
19 months of the due date, there shall be assessed a total penalty of  
20 twenty percent of the amount of the tax.

21 (3) Upon receipt of the amount of each tax imposed the department  
22 of revenue shall deposit the same with the state treasurer, who shall  
23 deposit four percent of the revenues received under RCW 54.28.020(1)  
24 and 54.28.025(1) and all revenues received under RCW 54.28.020(2) and  
25 54.28.025(2) in the general fund of the state and shall distribute the  
26 remainder in the manner hereinafter set forth. The state treasurer  
27 shall send a duplicate copy of each transmittal to the department of  
28 revenue.

29 **Sec. 18.** RCW 82.32.105 and 1975 1st ex.s. c 278 s 78 are each  
30 amended to read as follows:

31 (1) If the department of revenue finds that the payment by a  
32 taxpayer of a tax less than that properly due or the failure of a  
33 taxpayer to pay any tax by the due date was the result of circumstances  
34 beyond the control of the taxpayer, the department of revenue shall  
35 waive or cancel any ~~((interest or))~~ penalties imposed under this  
36 chapter with respect to such tax. ~~((The department of revenue shall~~  
37 prescribe rules for the waiver or cancellation of interest or penalties

1 imposed by this chapter. Notwithstanding the foregoing the amount of  
2 any interest which has been waived, canceled or refunded prior to May  
3 1, 1965 shall not be reassessed according to the provisions of this  
4 chapter.))

5 (2) The department shall waive or cancel the penalty imposed under  
6 RCW 82.32.090(1) when the circumstances under which the delinquency  
7 occurred do not qualify for waiver or cancellation under subsection (1)  
8 of this section if:

9 (a) The taxpayer requests the waiver for a tax return required to  
10 be filed under RCW 82.32.045, 82.23B.020, 82.27.060, 82.29A.050, or  
11 84.33.086; and

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

16 (3) The department shall waive or cancel interest imposed under  
17 this chapter if:

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

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

23 (4) The department of revenue shall adopt rules for the waiver or  
24 cancellation of penalties and interest imposed by this chapter.

25 NEW SECTION. Sec. 19. A new section is added to chapter 83.100  
26 RCW to read as follows:

27 The department may enter into closing agreements as provided in RCW  
28 82.32.350 and 82.32.360.

29 **Sec. 20.** RCW 82.12.045 and 1983 c 77 s 2 are each amended to read  
30 as follows:

31 (1) In the collection of the use tax on motor vehicles, the  
32 department of revenue may designate the county auditors of the several  
33 counties of the state as its collecting agents. Upon such designation,  
34 it shall be the duty of each county auditor to collect the tax at the  
35 time an applicant applies for the registration of, and transfer of  
36 title to, the motor vehicle, except in the following instances:

1        ~~((1))~~ (a) Where the applicant exhibits a dealer's report of sale  
2 showing that the retail sales tax has been collected by the dealer;

3        ~~((2))~~ (b) Where the application is for the renewal of  
4 registration;

5        ~~((3))~~ (c) Where the applicant presents a written statement signed  
6 by the department of revenue, or its duly authorized agent showing that  
7 no use tax is legally due; or

8        ~~((4))~~ (d) Where the applicant presents satisfactory evidence  
9 showing that the retail sales tax or the use tax has been paid by him  
10 on the vehicle in question.

11        (2) The term "motor vehicle," as used in this section means and  
12 includes all motor vehicles, trailers and semitrailers used, or of a  
13 type designed primarily to be used, upon the public streets and  
14 highways, for the convenience or pleasure of the owner, or for the  
15 conveyance, for hire or otherwise, of persons or property, including  
16 fixed loads, facilities for human habitation, and vehicles carrying  
17 exempt licenses.

18        (3) It shall be the duty of every applicant for registration and  
19 transfer of certificate of title who is subject to payment of tax under  
20 this section to declare upon his application the value of the vehicle  
21 for which application is made, which shall consist of the consideration  
22 paid or contracted to be paid therefor. ~~((Any person wilfully  
23 misrepresenting, or failing or refusing to declare upon his  
24 application, such value shall be guilty of a gross misdemeanor.))~~

25        (4) Each county auditor who acts as agent of the department of  
26 revenue shall at the time of remitting license fee receipts on motor  
27 vehicles subject to the provisions of this section pay over and account  
28 to the state treasurer for all use tax revenue collected under this  
29 section, after first deducting as his collection fee the sum of two  
30 dollars for each motor vehicle upon which the tax has been collected.  
31 All revenue received by the state treasurer under this section shall be  
32 credited to the general fund. The auditor's collection fee shall be  
33 deposited in the county current expense fund. A duplicate of the  
34 county auditor's transmittal report to the state treasurer shall be  
35 forwarded forthwith to the department of revenue.

36        (5) Any applicant who has paid use tax to a county auditor under  
37 this section may apply to the department of revenue for refund thereof  
38 if he has reason to believe that such tax was not legally due and  
39 owing. No refund shall be allowed unless application therefor is

1 received by the department of revenue within (~~two years after payment~~  
2 ~~of the tax~~) the statutory period for assessment of taxes, penalties,  
3 or interest prescribed by RCW 82.32.050(3). Upon receipt of an  
4 application for refund the department of revenue shall consider the  
5 same and issue its order either granting or denying it and if refund is  
6 denied the taxpayer shall have the right of appeal as provided in RCW  
7 82.32.170, 82.32.180 and 82.32.190.

8 (6) The provisions of this section shall be construed as cumulative  
9 of other methods prescribed in chapters 82.04 to 82.32 RCW, inclusive,  
10 for the collection of the tax imposed by this chapter. The department  
11 of revenue shall have power to promulgate such rules (~~and~~  
12 ~~regulations~~) as may be necessary to administer the provisions of this  
13 section. Any duties required by this section to be performed by the  
14 county auditor may be performed by the director of licensing but no  
15 collection fee shall be deductible by said director in remitting use  
16 tax revenue to the state treasurer.

17 NEW SECTION. **Sec. 21.** This act shall take effect January 1, 1997.

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