

2 EHB 1821 - S COMM AMD
3 By Committee on Ways & Means

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 82.04.255 and 1996 c 1 s 1 are each amended to read
8 as follows:

9 Upon every person engaging within the state as a real estate
10 broker; as to such persons, the amount of the tax with respect to such
11 business shall be equal to the gross income of the business, multiplied
12 by the rate of ((1.75)) 1.5 percent.

13 The measure of the tax on real estate commissions earned by the
14 real estate broker shall be the gross commission earned by the
15 particular real estate brokerage office including that portion of the
16 commission paid to salesmen or associate brokers in the same office on
17 a particular transaction: PROVIDED, HOWEVER, That where a real estate
18 commission is divided between an originating brokerage office and a
19 cooperating brokerage office on a particular transaction, each
20 brokerage office shall pay the tax only upon their respective shares of
21 said commission: AND PROVIDED FURTHER, That where the brokerage office
22 has paid the tax as provided herein, salesmen or associate brokers
23 within the same brokerage office shall not be required to pay a similar
24 tax upon the same transaction.

25 **Sec. 2.** RCW 82.04.290 and 1996 c 1 s 2 are each amended to read as
26 follows:

27 ~~(1) ((Upon every person engaging within this state in the business
28 of providing selected business services other than or in addition to
29 those enumerated in RCW 82.04.250 or 82.04.270; as to such persons the
30 amount of tax on account of such activities shall be equal to the gross
31 income of the business multiplied by the rate of 2.0 percent.~~

32 ~~(2) Upon every person engaging within this state in banking, loan,
33 security, investment management, investment advisory, or other
34 financial businesses, other than or in addition to those enumerated in
35 subsection (3) of this section; as to such persons, the amount of the~~

1 ~~tax with respect to such business shall be equal to the gross income of~~
2 ~~the business, multiplied by the rate of 1.6 percent.~~

3 (~~3~~)) Upon every person engaging within this state in the business
4 of providing international investment management services, as to such
5 persons, the amount of tax with respect to such business shall be equal
6 to the gross income or gross proceeds of sales of the business
7 multiplied by a rate of 0.275 percent.

8 ((~~4~~)) (2) Upon every person engaging within this state in any
9 business activity other than or in addition to those enumerated in RCW
10 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, and
11 82.04.280, and subsection(~~(s)~~) (1)((~~, (2), and (3)~~)) of this section;
12 as to such persons the amount of tax on account of such activities
13 shall be equal to the gross income of the business multiplied by the
14 rate of ((~~1.75~~)) 1.5 percent.

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

26 **Sec. 3.** RCW 82.04.293 and 1995 c 229 s 1 are each amended to read
27 as follows:

28 For purposes of RCW 82.04.290((~~3~~)):

29 (1) A person is engaged in the business of providing international
30 investment management services, if:

31 (a) Such person is engaged primarily in the business of providing
32 investment management services; and

33 (b) At least ten percent of the gross income of such person is
34 derived from providing investment management services to any of the
35 following: (i) Persons or collective investment funds residing outside
36 the United States; or (ii) persons or collective investment funds with
37 at least ten percent of their investments located outside the United
38 States.

1 (2) "Investment management services" means investment research,
2 investment consulting, portfolio management, fund administration, fund
3 distribution, investment transactions, or related investment services.

4 (3) "Collective investment fund" includes:

5 (a) A mutual fund or other regulated investment company, as defined
6 in section 851(a) of the internal revenue code of 1986, as amended;

7 (b) An "investment company," as that term is used in section 3(a)
8 of the investment company act of 1940, as well as any entity that would
9 be an investment company for this purpose but for the exemptions
10 contained in section 3(c)(1) or (11);

11 (c) An "employee benefit plan," which includes any plan, trust,
12 commingled employee benefit trust, or custodial arrangement that is
13 subject to the employee retirement income security act of 1974, as
14 amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections
15 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the
16 internal revenue code of 1986, as amended, or a similar plan maintained
17 by a state or local government, or a plan, trust, or custodial
18 arrangement established to self-insure benefits required by federal,
19 state, or local law;

20 (d) A fund maintained by a tax-exempt organization, as defined in
21 section 501(c)(3) of the internal revenue code of 1986, as amended, for
22 operating, quasi-endowment, or endowment purposes;

23 (e) Funds that are established for the benefit of such tax-exempt
24 organizations, such as charitable remainder trusts, charitable lead
25 trusts, charitable annuity trusts, or other similar trusts; or

26 (f) Collective investment funds similar to those described in (a)
27 through (e) of this subsection created under the laws of a foreign
28 jurisdiction.

29 (4) Investments are located outside the United States if the
30 underlying assets in which the investment constitutes a beneficial
31 interest reside or are created, issued or held outside the United
32 States.

33 **Sec. 4.** RCW 82.04.4452 and 1994 sp.s. c 5 s 2 are each amended to
34 read as follows:

35 (1) In computing the tax imposed under this chapter, a credit is
36 allowed for each person whose research and development spending during
37 the year in which the credit is claimed exceeds 0.92 percent of the
38 person's taxable amount during the same calendar year.

1 (2) The credit is equal to the greater of the amount of qualified
2 research and development expenditures of a person or eighty percent of
3 amounts received by a person other than a public educational or
4 research institution in compensation for the conduct of qualified
5 research and development, multiplied by the rate (~~of 0.515 percent~~)
6 provided in RCW 82.04.260(6) in the case of a nonprofit corporation or
7 nonprofit association engaging within this state in research and
8 development, and (~~2.5 percent~~) the rate provided in RCW 82.04.290(2)
9 for every other person.

10 (3) Any person entitled to the credit provided in subsection (2) of
11 this section as a result of qualified research and development
12 conducted under contract may assign all or any portion of the credit to
13 the person contracting for the performance of the qualified research
14 and development.

15 (4) The credit, including any credit assigned to a person under
16 subsection (3) of this section, shall be taken against taxes due for
17 the same calendar year in which the qualified research and development
18 expenditures are incurred. The credit, including any credit assigned
19 to a person under subsection (3) of this section, for each calendar
20 year shall not exceed the lesser of two million dollars or the amount
21 of tax otherwise due under this chapter for the calendar year.

22 (5) Any person taking the credit, including any credit assigned to
23 a person under subsection (3) of this section, whose research and
24 development spending during the calendar year in which the credit is
25 claimed fails to exceed 0.92 percent of the person's taxable amount
26 during the same calendar year shall be liable for payment of the
27 additional taxes represented by the amount of credit taken together
28 with interest, but not penalties. Interest shall be due at the rate
29 provided for delinquent excise taxes retroactively to the date the
30 credit was taken until the taxes are paid. Any credit assigned to a
31 person under subsection (3) of this section that is disallowed as a
32 result of this section may be taken by the person who performed the
33 qualified research and development subject to the limitations set forth
34 in subsection (4) of this section.

35 (6) Any person claiming the credit, and any person assigning a
36 credit as provided in subsection (3) of this section, shall file an
37 affidavit form prescribed by the department which shall include the
38 amount of the credit claimed, an estimate of the anticipated qualified
39 research and development expenditures during the calendar year for

1 which the credit is claimed, an estimate of the taxable amount during
2 the calendar year for which the credit is claimed, and such additional
3 information as the department may prescribe.

4 (7) A person claiming the credit shall agree to supply the
5 department with information necessary to measure the results of the tax
6 credit program for qualified research and development expenditures.

7 (8) The department shall use the information required under
8 subsection (7) of this section to perform three assessments on the tax
9 credit program authorized under this section. The assessments will
10 take place in 1997, 2000, and 2003. The department shall prepare
11 reports on each assessment and deliver their reports by September 1,
12 1997, September 1, 2000, and September 1, 2003. The assessments shall
13 measure the effect of the program on job creation, the number of jobs
14 created for Washington residents, company growth, the introduction of
15 new products, the diversification of the state's economy, growth in
16 research and development investment, the movement of firms or the
17 consolidation of firms' operations into the state, and such other
18 factors as the department selects.

19 (9) For the purpose of this section:

20 (a) "Qualified research and development expenditures" means
21 operating expenses, including wages, compensation of a proprietor or a
22 partner in a partnership as determined under rules adopted by the
23 department, benefits, supplies, and computer expenses, directly
24 incurred in qualified research and development by a person claiming the
25 credit provided in this section. The term does not include amounts
26 paid to a person other than a public educational or research
27 institution to conduct qualified research and development. Nor does
28 the term include capital costs and overhead, such as expenses for land,
29 structures, or depreciable property.

30 (b) "Qualified research and development" shall have the same
31 meaning as in RCW 82.63.010.

32 (c) "Research and development spending" means qualified research
33 and development expenditures plus eighty percent of amounts paid to a
34 person other than a public educational or research institution to
35 conduct qualified research and development.

36 (d) "Taxable amount" means the taxable amount subject to the tax
37 imposed in this chapter required to be reported on the person's
38 combined excise tax returns during the year in which the credit is

1 claimed, less any taxable amount for which a credit is allowed under
2 RCW 82.04.440.

3 (10) This section shall expire December 31, 2004.

4 NEW SECTION. **Sec. 5.** RCW 82.04.055 and 1993 sp.s. c 25 s 201 are
5 each repealed.

6 NEW SECTION. **Sec. 6.** This act does not affect any existing right
7 acquired or liability or obligation incurred under the sections amended
8 or repealed in this act or under any rule or order adopted under those
9 sections, nor does it affect any proceeding instituted under those
10 sections.

11 NEW SECTION. **Sec. 7.** This act takes effect July 1, 1998."

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15 On page 1, on line 2 of the title, after "categories;", strike the
16 remainder of the title and insert "amending RCW 82.04.255, 82.04.290,
17 82.04.293, and 82.04.4452; creating a new section; repealing RCW
18 82.04.055; and providing an effective date."

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EFFECT: Only consolidates the service rate categories.