



1 income," "taxpayer," "retail sale," and "value of products" shall apply  
2 equally to the provisions of this chapter.

3 (2) Unless the context requires otherwise, "agreement" means the  
4 streamlined sales and use tax agreement.

5 (3) "Certified automated system" means software certified under the  
6 agreement to calculate the tax imposed by each jurisdiction on a  
7 transaction, determine the amount of tax to remit to the appropriate  
8 state, and maintain a record of the transaction.

9 (4) "Certified service provider" means an agent certified under the  
10 agreement to perform all of the seller's sales and use tax functions,  
11 other than the seller's obligation to remit tax on its own purchases.

12 (5)(a) "Member state" means a state that:

13 (i) Has petitioned for membership in the agreement and submitted a  
14 certificate of compliance; and

15 (ii) Prior to the effective date of the agreement, has been found  
16 to be in substantial compliance with the requirements of the agreement  
17 by an affirmative vote of three-fourths of the other petitioning  
18 states; or

19 (iii) After the effective date of the agreement, has been found to  
20 be in compliance with the agreement by a three-fourths vote of the  
21 entire governing board of the agreement.

22 (b) Membership under (a)(ii) of this subsection is effective on the  
23 first day of a calendar quarter at least sixty days after at least ten  
24 states comprising at least twenty percent of the total population, as  
25 determined by the 2000 federal census, of all states imposing a state  
26 sales tax have petitioned for membership and have been found in  
27 compliance with the agreement.

28 (c) Membership under (a)(iii) of this subsection is effective on  
29 the state's proposed date of entry.

30 (6) "Model 1 seller" means a seller that has selected a certified  
31 service provider as its agent to perform all the seller's sales and use  
32 tax functions, other than the seller's obligation to remit tax on its  
33 own purchases.

34 (7) "Model 2 seller" means a seller that has selected a certified  
35 automated system to perform part of its sales and use tax functions,  
36 but retains responsibility for remitting the tax.

37 (8) "Model 3 seller" means a seller that has sales in at least five  
38 member states, has total annual sales revenue of at least five hundred

1 million dollars, has a proprietary system that calculates the amount of  
2 tax due each jurisdiction, and has entered into a performance agreement  
3 with the member states that establishes a tax performance standard for  
4 the seller. As used in this subsection, a seller includes an  
5 affiliated group of sellers using the same proprietary system.

6 (9) "Source" means the location in which the sale or use, of  
7 tangible personal property or a service, subject to tax under chapter  
8 82.08, 82.12, 82.14, or 82.14B RCW, is deemed to occur.

9 (10) "Operational date" means the first day of the first calendar  
10 quarter that is at least six months after the first month that the  
11 state can lawfully require remote sellers to collect sales or use tax  
12 on retail sales made to Washington residents as determined by a court  
13 of competent jurisdiction, in a judgment not subject to review, or by  
14 other legal act as certified by the director of revenue.

15 **PART II. REGISTRATION**

16 NEW SECTION. Sec. 201. A new section is added to chapter 82.32  
17 RCW to read as follows:

18 (1) A seller, by written agreement, may appoint a person to  
19 represent the seller as its agent. The seller's agent has authority to  
20 register the seller with the state. An agent may also be a certified  
21 service provider, with authority to perform all the seller's sales and  
22 use tax functions, except that the seller remains responsible for  
23 remitting the tax on its own purchases.

24 (2) The seller or its agent must provide the state with a copy of  
25 the written agreement upon request.

26 **Sec. 202.** RCW 82.32.030 and 1996 c 111 s 2 are each amended to  
27 read as follows:

28 (1) Except as provided in subsections (2) and (3) of this section,  
29 if any person engages in any business or performs any act upon which a  
30 tax is imposed by the preceding chapters, he or she shall, under such  
31 rules as the department of revenue shall prescribe, apply for and  
32 obtain from the department a registration certificate. Such  
33 registration certificate shall be personal and nontransferable and  
34 shall be valid as long as the taxpayer continues in business and pays  
35 the tax accrued to the state. In case business is transacted at two or

1 more separate places by one taxpayer, a separate registration  
2 certificate for each place at which business is transacted with the  
3 public shall be required. Each certificate shall be numbered and shall  
4 show the name, residence, and place and character of business of the  
5 taxpayer and such other information as the department of revenue deems  
6 necessary and shall be posted in a conspicuous place at the place of  
7 business for which it is issued. Where a place of business of the  
8 taxpayer is changed, the taxpayer must return to the department the  
9 existing certificate, and a new certificate will be issued for the new  
10 place of business. No person required to be registered under this  
11 section shall engage in any business taxable hereunder without first  
12 being so registered. The department, by rule, may provide for the  
13 issuance of certificates of registration to temporary places of  
14 business.

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

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

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

24 (c) The person is not required to collect or pay to the department  
25 of revenue any other tax or fee which the department is authorized to  
26 collect; and

27 (d) The person is not otherwise required to obtain a license  
28 subject to the master application procedure provided in chapter 19.02  
29 RCW.

30 (3) Persons who agree to collect and remit sales and use tax to the  
31 department under the agreement and are not required to register under  
32 subsection (1) of this section may:

33 (a) Register through an on-line system authorized under the  
34 agreement, if the person agrees to provide additional information to  
35 the department to complete the registration process; or

36 (b) Register under subsection (1) of this section.

1                   **PART III. MONETARY ALLOWANCES AND VENDOR DISCOUNTS**

2           NEW SECTION.   **Sec. 301.** A new section is added to chapter 82.32  
3 RCW to read as follows:

4           (1) The department shall adopt by rule monetary allowances for  
5 certified service providers, model 2 sellers, and model 3 sellers and  
6 other sellers that are not model 1 or model 2 sellers. The department  
7 may be guided by the provisions for monetary allowances adopted by the  
8 governing board of the agreement to determine the amount of the  
9 allowances and the conditions under which they are allowed. The  
10 monetary allowance must be reasonable and provide adequate incentive  
11 for certified service providers and sellers to collect and remit under  
12 the agreement.

13           (2) For certified service providers, the monetary allowance may  
14 include a base rate that applies to taxable transactions processed by  
15 the certified service provider. Additionally, for a period not to  
16 exceed twenty-four months following a seller's registration under RCW  
17 82.32.030(3), the monetary allowance may include a percentage of tax  
18 revenue generated by the seller.

19           (3) For model 2 sellers, the monetary allowance may include a base  
20 rate or percentage of revenue generated by a seller registering under  
21 RCW 82.32.030(3), but shall not exceed a period of twenty-four months.

22           (4) For model 3 sellers and all other sellers that are not model 1  
23 sellers or model 2 sellers, the monetary allowance may include a  
24 percentage of tax revenue generated by a seller registering under RCW  
25 82.32.030(3), but shall not exceed a period of twenty-four months.

26           NEW SECTION.   **Sec. 302.** A new section is added to chapter 82.32  
27 RCW to read as follows:

28           (1) The department may adopt by rule vendor compensation for  
29 sellers collecting and remitting sales and use taxes. The vendor  
30 compensation may include a base rate or a percentage of tax revenue  
31 collected by the seller, and may vary by type of seller. The  
32 department may be guided by the findings of the cost of collection  
33 study performed under the agreement, by cost of collection studies  
34 performed by the department, and by vendor compensation provided by  
35 other states, to determine reasonable vendor compensation for sellers  
36 for the costs to collect and remit sales and use taxes.

1 (2) A seller shall not be entitled to vendor compensation while the  
2 seller or its certified service provider, as defined in RCW 82.32.020,  
3 receives a monetary allowance under section 301 of this act.

4 **PART IV. AMNESTY**

5 NEW SECTION. **Sec. 401.** A new section is added to chapter 82.32  
6 RCW to read as follows:

7 (1) No assessment for taxes imposed under chapters 82.08 and 82.12  
8 RCW, or related penalties or interest, may be made by the department  
9 against a seller who:

10 (a) Within four months of the effective date of this section,  
11 registers to collect and remit to the department the applicable taxes  
12 imposed under chapters 82.08 and 82.12 RCW on sales made to buyers in  
13 this state in accordance with the terms of the agreement, if the seller  
14 was not so registered in this state in the twelve-month period  
15 preceding the effective date of this section; and

16 (b) Continues to be registered and continues to collect and remit  
17 to the department the applicable taxes imposed under chapters 82.08 and  
18 82.12 RCW for a period of at least thirty-six months, absent the  
19 seller's fraud or intentional misrepresentation of a material fact.

20 (2) The provisions of subsection (1) of this section preclude an  
21 assessment for taxes imposed under chapters 82.08 and 82.12 RCW for  
22 sales made to buyers during the period the seller was not registered in  
23 this state.

24 (3) The provisions of this section do not apply to any seller with  
25 respect to:

26 (a) Any matter or matters for which the seller, before registering  
27 to collect and remit the applicable taxes imposed under chapters 82.08  
28 and 82.12 RCW, received notice from the department of the commencement  
29 of an audit and which audit is not yet finally resolved including any  
30 related administrative and judicial processes;

31 (b) Taxes imposed under chapters 82.08 and 82.12 RCW and collected  
32 or remitted to the department by the seller; or

33 (c) That seller's liability for taxes imposed under chapters 82.08  
34 and 82.12 RCW in that seller's capacity as a buyer.

35 (4) The periods of limitation for making an assessment or

1 correction of an assessment prescribed in RCW 82.32.050(3) and  
2 82.32.100(3) do not run during the thirty-six month period in  
3 subsection (1)(b) of this section.

4 **PART V. SOURCING**

5 NEW SECTION. **Sec. 501.** A new section is added to chapter 82.32  
6 RCW to read as follows:

7 (1) This subsection applies to retail sales occurring before the  
8 operational date. Subsections (2) through (11) of this section apply  
9 to retail sales occurring on or after the operational date.

10 (a) A retail sale consisting solely of the sale of tangible  
11 personal property shall be deemed to have occurred at the retail outlet  
12 at or from which delivery is made to the consumer.

13 (b) A retail sale consisting essentially of the performance of  
14 personal, business, or professional services shall be deemed to have  
15 occurred at the place at which such services were primarily performed,  
16 except that for the performance of a tow truck service, as defined in  
17 RCW 46.55.010, the retail sale shall be deemed to have occurred at the  
18 place of business of the operator of the tow truck service.

19 (c) A retail sale consisting of the rental of tangible personal  
20 property shall be deemed to have occurred (i) in the case of a rental  
21 involving periodic rental payments, at the place of primary use by the  
22 lessee during the period covered by each payment, or (ii) in all other  
23 cases, at the place of first use by the lessee.

24 (d) A retail sale within the scope of RCW 82.04.050(2), and a  
25 retail sale of taxable personal property to be installed by the seller  
26 shall be deemed to have occurred at the place where the labor and  
27 services involved were primarily performed.

28 (e)(i) A retail sale consisting of the providing to a consumer of  
29 telephone service, as defined in RCW 82.04.065, other than a sale of  
30 tangible personal property under (a) of this subsection or a rental of  
31 tangible personal property under (c) of this subsection or a sale of  
32 mobile telecommunications services, shall be deemed to have occurred at  
33 the situs of the telephone or other instrument through which the  
34 telephone service is rendered.

35 (ii) A retail sale consisting of the providing of

1 telecommunications services shall be sourced in accordance with RCW  
2 82.32.520.

3 (f) A retail sale of linen and uniform supply services is deemed to  
4 occur as provided in RCW 82.08.0202.

5 (2) Except as provided in subsections (6), (7), (8), and (9) of  
6 this section, for purposes of collecting or paying sales or use taxes  
7 to the appropriate jurisdictions, all sales at retail shall be sourced  
8 in accordance with this subsection and subsections (3) through (5) of  
9 this section.

10 (a) When tangible personal property or a service defined as a  
11 retail sale under RCW 82.04.050 is received by the purchaser at a  
12 business location of the seller, the sale is sourced to that business  
13 location.

14 (b) When the tangible personal property or a service defined as a  
15 retail sale under RCW 82.04.050 is not received by the purchaser at a  
16 business location of the seller, the sale is sourced to the location  
17 where receipt by the purchaser or the purchaser's donee, designated as  
18 such by the purchaser, occurs, including the location indicated by  
19 instructions for delivery to the purchaser or donee, known to the  
20 seller.

21 (c) When (a) and (b) of this subsection do not apply, the sale is  
22 sourced to the location indicated by an address for the purchaser that  
23 is available from the business records of the seller that are  
24 maintained in the ordinary course of the seller's business when use of  
25 this address does not constitute bad faith.

26 (d) When (a), (b), and (c) of this subsection do not apply, the  
27 sale is sourced to the location indicated by an address for the  
28 purchaser obtained during the consummation of the sale, including the  
29 address of a purchaser's payment instrument, if no other address is  
30 available, when use of this address does not constitute bad faith.

31 (e) When (a), (b), (c), or (d) of this subsection do not apply,  
32 including the circumstance where the seller is without sufficient  
33 information to apply those provisions, then the location shall be  
34 determined by the address from which tangible personal property was  
35 shipped, from which the digital good or the computer software delivered  
36 electronically was first available for transmission by the seller, or  
37 from which the service defined as a retail sale under RCW 82.04.050 was

1 provided, disregarding for these purposes any location that merely  
2 provided the digital transfer of the product sold.

3 (3) The lease or rental of tangible personal property, other than  
4 property identified in subsection (4) or (5) of this section, shall be  
5 sourced as follows:

6 (a) For a lease or rental that requires recurring periodic  
7 payments, the first periodic payment is sourced the same as a retail  
8 sale in accordance with subsection (2) of this section. Periodic  
9 payments made subsequent to the first payment are sourced to the  
10 primary property location for each period covered by the payment. The  
11 primary property location shall be as indicated by an address for the  
12 property provided by the lessee that is available to the lessor from  
13 its records maintained in the ordinary course of business, when use of  
14 this address does not constitute bad faith. The property location  
15 shall not be altered by intermittent use at different locations, such  
16 as use of business property that accompanies employees on business  
17 trips and service calls.

18 (b) For a lease or rental that does not require recurring periodic  
19 payments, the payment is sourced the same as a retail sale in  
20 accordance with subsection (2) of this section.

21 (c) This subsection does not affect the imposition or computation  
22 of sales or use tax on leases or rentals based on a lump sum or  
23 accelerated basis, or on the acquisition of property for lease.

24 (4) The lease or rental of motor vehicles, trailers, semitrailers,  
25 or aircraft that do not qualify as transportation equipment shall be  
26 sourced as follows:

27 (a) For a lease or rental that requires recurring periodic  
28 payments, each periodic payment is sourced to the primary property  
29 location. The primary property location shall be as indicated by an  
30 address for the property provided by the lessee that is available to  
31 the lessor from its records maintained in the ordinary course of  
32 business, when use of this address does not constitute bad faith. This  
33 location shall not be altered by intermittent use at different  
34 locations.

35 (b) For a lease or rental that does not require recurring periodic  
36 payments, the payment is sourced the same as a retail sale in  
37 accordance with subsection (2) of this section.

1 (c) This subsection does not affect the imposition or computation  
2 of sales or use tax on leases or rentals based on a lump sum or  
3 accelerated basis, or on the acquisition of property for lease.

4 (5) The retail sale, including lease or rental, of transportation  
5 equipment shall be sourced the same as a retail sale in accordance with  
6 subsection (2) of this section.

7 (6) A purchaser that is a business and is not a holder of a direct  
8 pay permit that knows at the time of purchase of a digital good,  
9 computer software delivered electronically, or a service that the  
10 digital good, computer software delivered electronically, or service  
11 will be concurrently available for use in more than one jurisdiction  
12 shall deliver to the seller in conjunction with its purchase a multiple  
13 points of use exemption form disclosing this fact.

14 (a) Upon receipt of the multiple point of use exemption form, the  
15 seller is relieved of all obligation to collect, pay, or remit the  
16 applicable tax and the purchaser is obligated to collect, pay, or remit  
17 the applicable tax.

18 (b) A purchaser delivering the multiple point of use exemption  
19 form, or a direct pay permit in lieu of a multiple point of use  
20 exemption form, may use any reasonable, but consistent and uniform,  
21 method of apportionment that is supported by the purchaser's business  
22 records as they exist at the time of the consummation of the sale.

23 (c) The multiple point of use exemption form shall remain in effect  
24 for all future sales by the seller to the purchaser until it is revoked  
25 in writing.

26 (7)(a) A purchaser of direct mail that is not a holder of a direct  
27 pay permit shall provide to the seller in conjunction with the purchase  
28 either a direct mail form or information that shows the jurisdictions  
29 to which the direct mail is delivered to recipients.

30 (i) Upon receipt of the direct mail form, the seller is relieved of  
31 all obligations to collect, pay, or remit the applicable tax and the  
32 purchaser is obligated to pay or remit the applicable tax on a direct  
33 pay basis. A direct mail form shall remain in effect for all future  
34 sales of direct mail by the seller to the purchaser until it is revoked  
35 in writing.

36 (ii) Upon receipt of information from the purchaser showing the  
37 jurisdictions to which the direct mail is delivered to recipients, the  
38 seller shall collect the tax according to the delivery information

1 provided by the purchaser. In the absence of bad faith, the seller is  
2 relieved of any further obligation to collect tax on any transaction  
3 where the seller has collected tax pursuant to the delivery information  
4 provided by the purchaser.

5 (b) If the purchaser of direct mail does not have a direct pay  
6 permit and does not provide the seller with either a direct mail form  
7 or delivery information as required by (a) of this subsection, the  
8 seller shall collect the tax according to subsection (2)(e) of this  
9 section. This subsection does not limit a purchaser's obligation for  
10 sales or use tax to any state to which the direct mail is delivered.

11 (c) If a purchaser of direct mail provides the seller with  
12 documentation of direct pay authority, the purchaser is not required to  
13 provide a direct mail form or delivery information to the seller.

14 (8) The following are sourced to the location at or from which  
15 delivery is made to the consumer:

16 (a) A retail sale consisting of watercraft;

17 (b) A retail sale consisting of a modular home, manufactured home,  
18 or mobile home;

19 (c) A retail sale, excluding the lease and rental, consisting of a  
20 motor vehicle, trailer, semitrailer, or aircraft, that do not qualify  
21 as transportation equipment; and

22 (d) Until January 1, 2006, a retail sale of tangible personal  
23 property made by a person engaged in the business of selling flowers.  
24 The rules for the sourcing retail sales and use taxes of flowers  
25 delivered with telegraphic instructions in WAC 458-20-158, as effective  
26 on July 1, 1970, shall remain in effect until January 1, 2006.

27 (9) A retail sale consisting of the providing of telecommunications  
28 services shall be sourced in accordance with RCW 82.32.520.

29 (10) The definitions in this subsection apply throughout this  
30 section.

31 (a) "Delivered electronically" means delivered to the purchaser by  
32 means other than tangible storage media.

33 (b) "Direct mail" means printed material delivered or distributed  
34 by United States mail or other delivery service to a mass audience or  
35 to addressees on a mailing list provided by the purchaser or at the  
36 direction of the purchaser when the cost of the items are not billed  
37 directly to the recipients. "Direct mail" includes tangible personal  
38 property supplied directly or indirectly by the purchaser to the direct

1 mail seller for inclusion in the package containing the printed  
2 material. "Direct mail" does not include multiple items of printed  
3 material delivered to a single address.

4 (c) "Receive" and "receipt" means taking possession of tangible  
5 personal property, making first use of services, or taking possession  
6 or making first use of digital goods, whichever comes first. "Receive"  
7 and "receipt" do not include possession by a shipping company on behalf  
8 of the purchaser.

9 (d) "Transportation equipment" means any of the following:

10 (i) Locomotives and railcars that are used for the carriage of  
11 persons or property in interstate commerce;

12 (ii) Trucks and truck-tractors with a gross vehicle weight rating  
13 of 10,001 pounds or greater, trailers, semitrailers, or passenger buses  
14 that are:

15 (A) Registered through the international registration plan; and

16 (B) Operated under authority of a carrier authorized and  
17 certificated by the United States department of transportation or  
18 another federal authority to engage in the carriage of persons or  
19 property in interstate commerce;

20 (iii) Aircraft that are operated by air carriers authorized and  
21 certificated by the United States department of transportation or  
22 another federal or foreign authority to engage in the carriage of  
23 persons or property in interstate or foreign commerce;

24 (iv) Containers designed for use on and component parts attached or  
25 secured on the items described in (d)(i) through (iii) of this  
26 subsection.

27 (11) In those instances where there is no obligation on the part of  
28 a seller to collect or remit use tax, the use of tangible personal  
29 property or of a service, subject to use tax, is sourced to the place  
30 of first use. The definition of use in RCW 82.12.010 applies to this  
31 subsection.

32 **Sec. 502.** RCW 82.14.020 and 2003 c 168 s 503 and 2003 c 168 s 502  
33 are each reenacted and amended to read as follows:

34 For purposes of this chapter:

35 (1) ~~((A retail sale consisting solely of the sale of tangible~~  
36 ~~personal property shall be deemed to have occurred at the retail outlet~~  
37 ~~at or from which delivery is made to the consumer;~~

1       ~~(2) A retail sale consisting essentially of the performance of~~  
2 ~~personal, business, or professional services shall be deemed to have~~  
3 ~~occurred at the place at which such services were primarily performed,~~  
4 ~~except that for the performance of a tow truck service, as defined in~~  
5 ~~RCW 46.55.010, the retail sale shall be deemed to have occurred at the~~  
6 ~~place of business of the operator of the tow truck service;~~

7       ~~(3) A retail sale consisting of the rental of tangible personal~~  
8 ~~property shall be deemed to have occurred (a) in the case of a rental~~  
9 ~~involving periodic rental payments, at the place of primary use by the~~  
10 ~~lessee during the period covered by each payment, or (b) in all other~~  
11 ~~cases, at the place of first use by the lessee;~~

12       ~~(4) A retail sale within the scope of RCW 82.04.050(2), and a~~  
13 ~~retail sale of taxable personal property to be installed by the seller~~  
14 ~~shall be deemed to have occurred at the place where the labor and~~  
15 ~~services involved were primarily performed;~~

16       ~~(5)(a) A retail sale consisting of the providing to a consumer of~~  
17 ~~telephone service, as defined in RCW 82.04.065, other than a sale of~~  
18 ~~tangible personal property under subsection (1) of this section or a~~  
19 ~~rental of tangible personal property under subsection (3) of this~~  
20 ~~section or a sale of mobile telecommunications services, shall be~~  
21 ~~deemed to have occurred at the situs of the telephone or other~~  
22 ~~instrument through which the telephone service is rendered;~~

23       ~~(b) A retail sale consisting of the providing of telecommunications~~  
24 ~~services shall be sourced in accordance with RCW 82.32.520;~~

25       ~~(6) A retail sale of linen and uniform supply services is deemed to~~  
26 ~~occur as provided in RCW 82.08.0202;~~

27       ~~(7)) "City" means a city or town;~~

28       ~~((8)) (2) The meaning ascribed to words and phrases in chapters~~  
29 ~~82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as~~  
30 ~~applicable, shall have full force and effect with respect to taxes~~  
31 ~~imposed under authority of this chapter;~~

32       ~~((9)) (3) "Taxable event" shall mean any retail sale, or any use,~~  
33 ~~upon which a state tax is imposed pursuant to chapter 82.08 or 82.12~~  
34 ~~RCW, as they now exist or may hereafter be amended: PROVIDED, HOWEVER,~~  
35 ~~That the term shall not include a retail sale taxable pursuant to RCW~~  
36 ~~82.08.150, as now or hereafter amended;~~

37       ~~((10)) (4) "Treasurer or other legal depository" shall mean the~~  
38 ~~treasurer or legal depository of a county or city.~~

1        NEW SECTION.    **Sec. 503.**    A new section is added to chapter 82.14  
2    RCW to read as follows:

3        Sales and use taxes imposed under this chapter shall be sourced in  
4    accordance with section 501 of this act.

5                    **PART VI.    CONFIDENTIALITY AND PRIVACY PROTECTIONS FOR**  
6                    **PERSONS USING CERTIFIED SERVICE PROVIDERS**

7        NEW SECTION.    **Sec. 601.**    A new section is added to chapter 82.32  
8    RCW to read as follows:

9        (1) A fundamental precept of allowing the use of a certified  
10    service provider is to preserve the privacy of consumers by protecting  
11    their anonymity.    With very limited exceptions, a certified service  
12    provider shall perform its tax calculation, remittance, and reporting  
13    functions without retaining the personally identifiable information of  
14    consumers.

15        (2) The department of revenue shall provide public notification to  
16    consumers, including purchasers claiming exemption from tax, of its  
17    practices relating to the collection, use, and retention of personally  
18    identifiable information.

19        (3) When personally identifiable information that has been  
20    collected and retained is no longer required to ensure the validity of  
21    exemptions from taxation by reason of the consumer's status or the  
22    intended use of the goods or services purchased, the information shall  
23    no longer be retained by the state of Washington.

24        (4) When personally identifiable information regarding an  
25    individual is retained by or on behalf of the state of Washington, this  
26    state shall provide reasonable access for the individual to his or her  
27    own information and a right to correct any inaccurately recorded  
28    information.

29        (5) If anyone other than a member state of the agreement, or other  
30    than a person authorized by Washington law or the agreement, seeks to  
31    discover personally identifiable information, the state of Washington  
32    shall make a reasonable and timely effort to notify the individual of  
33    the request.

34        (6) The provisions of this section may be enforced by petitioning  
35    the superior court of Thurston county for injunctive relief.



1 price, the retailer must collect and remit tax on the percentage of  
2 delivery charges allocated to the taxable personal property, but does  
3 not have to collect and remit tax on the percentage allocated to exempt  
4 tangible personal property. The retailer may use either of the  
5 following percentages to determine the taxable portion of the delivery  
6 charges:

7 (1) A percentage based on the total purchase price of the taxable  
8 personal property compared to the total purchase price of all tangible  
9 personal property in the shipment; or

10 (2) A percentage based on the total weight of the taxable tangible  
11 personal property compared to the total weight of all tangible personal  
12 property in the shipment.

13 NEW SECTION. **Sec. 803.** A new section is added to chapter 82.12  
14 RCW to read as follows:

15 When computing the tax levied by RCW 82.12.020, if a shipment  
16 consists of taxable tangible personal property and nontaxable tangible  
17 personal property, and delivery charges are included in the value of  
18 the article used, the consumer must remit tax on the percentage of  
19 delivery charges allocated to the taxable personal property, but does  
20 not have to remit tax on the percentage allocated to exempt tangible  
21 personal property. The consumer may use either of the following  
22 percentages to determine the taxable portion of the delivery charges:

23 (1) A percentage based on the entire value of the taxable personal  
24 property compared to the total value of all tangible personal property  
25 in the shipment; or

26 (2) A percentage based on the total weight of the taxable tangible  
27 personal property compared to the total weight of all tangible personal  
28 property in the shipment.

29 **PART IX. SOURCING MITIGATION**

30 NEW SECTION. **Sec. 901.** (1) The legislature finds and declares  
31 that:

32 (a) Washington state's participation as a member state in the  
33 streamlined sales and use tax agreement benefits the state, all its  
34 local taxing jurisdictions, and its retailing industry by increasing

1 state and local revenues, improving the state's business climate, and  
2 simplifying the state's tax structure;

3 (b) Participation in the streamlined sales and use tax agreement  
4 requires the adoption of the agreement's sourcing provisions, which  
5 changes the location in which a retail sale of delivered tangible  
6 personal property occurs from the point of origin to the point of  
7 delivery;

8 (c) The streamlined sales and use tax agreement's sourcing  
9 provisions will cause sales and use tax revenues to shift among local  
10 taxing jurisdictions and it is in the best interest of the state and  
11 all its subdivisions to mitigate the adverse effects of adopting the  
12 agreement's sourcing provision by redistributing on an ongoing basis  
13 sales and use tax revenues from local taxing jurisdictions that gain  
14 revenues to local taxing jurisdictions that lose revenues;

15 (d) Revenue shifts among local taxing jurisdictions cannot be  
16 precisely determined without significantly increasing the  
17 administrative burden on the retail industry, which is contrary to the  
18 intent of the streamlined sales and use tax agreement. Therefore, the  
19 legislature recognizes that local taxing jurisdictions will not be  
20 completely, but only adequately, mitigated for revenue losses that  
21 result from this act.

22 (2) The legislature intends that the formulae developed in section  
23 902 of this act have the objective of mitigating, for each negatively  
24 affected local taxing jurisdiction, at least eighty percent of revenue  
25 losses that result from this act and that higher mitigation be pursued  
26 if it can be achieved without compounding revenue losses to other local  
27 taxing jurisdictions adversely impacted by this act.

28 **Sec. 902.** RCW 82.14.060 and 1991 c 207 s 3 are each amended to  
29 read as follows:

30 (1) Except as provided in subsection (3) of this section, monthly  
31 the state treasurer shall make distribution from the local sales and  
32 use tax account to the counties, cities, transportation authorities,  
33 and public facilities districts the amount of tax collected on behalf  
34 of each taxing authority, less the deduction provided for in RCW  
35 82.14.050. The state treasurer shall make the distribution under this  
36 section without appropriation.

1       (2) In the event that any ordinance or resolution imposes a sales  
2 and use tax at a rate in excess of the applicable limits contained  
3 herein, such ordinance or resolution shall not be considered void in  
4 toto, but only with respect to that portion of the rate which is in  
5 excess of the applicable limits contained herein.

6       (3) In order to mitigate potential sales and use tax revenue losses  
7 from the adoption of the streamlined sales and use tax agreement's  
8 sourcing provisions, the department of revenue, after the operational  
9 date, shall monthly, prior to the time distributions are made under  
10 subsection (1) of this section, advise the state treasurer to increase  
11 or decrease distributions to the counties, cities, and transportation  
12 authorities from the local sales and use tax account as provided in  
13 subsection (4) of this section. The treasurer shall revise the  
14 distributions accordingly.

15       (4) Since it is not practical to determine precisely the amount of  
16 revenue shifted among local taxing authorities solely from section 501  
17 of this act, the department of revenue shall determine the increase or  
18 decrease in distributions of taxes imposed under chapter 82.14 RCW  
19 based on formulae the department shall develop. The formulae shall be  
20 used to distribute taxes collected by selected retailers from the  
21 county, city, and transportation authority where the consumer receives  
22 delivery of the tangible personal property to the county, city, and  
23 transportation authority where the retail outlet is located,  
24 notwithstanding section 501 of this act. The department will evaluate  
25 and revise the formulae on an annual basis. In developing the formulae  
26 under this subsection (4), the department:

27       (a) Shall include a sample of persons within select North American  
28 industry classifications who make retail sales of tangible personal  
29 property to consumers and that deliver such property from warehouses or  
30 other centralized distribution centers;

31       (b) May also include in the sample the twenty largest persons who  
32 make and deliver retail sales of tangible personal property, as  
33 measured by volume of taxable retail sales of tangible personal  
34 property, within each county, city, or transportation authority  
35 adversely affected by this act; and

36       (c) May exclude from the sample persons who make and deliver retail  
37 sales of tangible personal property when inclusion of that person would  
38 cause another county, city, or transportation authority to incur a

1 larger loss of sales and use tax revenues from this act than it would  
2 otherwise incur absent the provisions of subsections (3) and (4) of  
3 this section.

4 (5) No county, city, or transportation authority may receive  
5 increases in distributions that would exceed its actual loss in sales  
6 and use tax revenues resulting from this act.

7 (6) The department shall consult with a representative of the  
8 association of Washington cities, a representative of the Washington  
9 state association of counties, a representative of the Washington state  
10 transit association, and counties, cities, and transportation  
11 authorities negatively impacted by this act to develop and revise the  
12 formulae in subsection (4) of this section. The rule-making provisions  
13 of chapter 34.05 RCW do not apply to this section.

14 NEW SECTION. Sec. 903. A new section is added to chapter 82.32  
15 RCW to read as follows:

16 (1) For purposes of gathering the data to develop the formulae in  
17 RCW 82.14.060(4), the department of revenue after the operational date  
18 may require persons engaging within this state in the business of  
19 making sales at retail to report additional information on a form  
20 prescribed by the department, but no more than once every six months.  
21 The report is due within thirty days of the date that the form is  
22 transmitted to the taxpayer by the department of revenue.

23 (2) If the additional information to be filed by a taxpayer is not  
24 received by the department of revenue by the due date, there shall be  
25 assessed a penalty of five hundred dollars if the taxpayer is required  
26 to report and remit sales tax on a quarterly or annual basis, or the  
27 greater of five hundred dollars or one percent of the sales tax  
28 reported on the taxpayer's return due the month the request for  
29 additional information is due if the taxpayer is required to report and  
30 remit the sales tax on a monthly basis.

31 (3) If the additional information is received by the department of  
32 revenue by the due date, the taxpayer shall receive a credit against  
33 the tax due under chapter 82.04 RCW in the amount of five hundred  
34 dollars. In no case may a credit earned during one calendar year be  
35 carried over to be credited against taxes incurred in a subsequent  
36 calendar year. No refunds may be granted for credits under this  
37 section.

1 (4) If the department of revenue finds that the failure of a  
2 taxpayer to provide the additional information required under this  
3 section by the due date was the result of circumstances beyond the  
4 control of the taxpayer, the department of revenue shall waive or  
5 cancel any penalties imposed under this section.

6 (5) The penalties imposed under this section are in addition to any  
7 other penalties authorized by law.

8 **Sec. 904.** RCW 82.32.330 and 2000 c 173 s 1 and 2000 c 106 s 1 are  
9 each reenacted and amended to read as follows:

10 (1) For purposes of this section:

11 (a) "Disclose" means to make known to any person in any manner  
12 whatever a return or tax information;

13 (b) "Return" means a tax or information return or claim for refund  
14 required by, or provided for or permitted under, the laws of this state  
15 which is filed with the department of revenue by, on behalf of, or with  
16 respect to a person, and any amendment or supplement thereto, including  
17 supporting schedules, attachments, or lists that are supplemental to,  
18 or part of, the return so filed;

19 (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
20 nature, source, or amount of the taxpayer's income, payments, receipts,  
21 deductions, exemptions, credits, assets, liabilities, net worth, tax  
22 liability deficiencies, overassessments, or tax payments, whether taken  
23 from the taxpayer's books and records or any other source, (iii)  
24 whether the taxpayer's return was, is being, or will be examined or  
25 subject to other investigation or processing, (iv) a part of a written  
26 determination that is not designated as a precedent and disclosed  
27 pursuant to RCW 82.32.410, or a background file document relating to a  
28 written determination, and (v) other data received by, recorded by,  
29 prepared by, furnished to, or collected by the department of revenue  
30 with respect to the determination of the existence, or possible  
31 existence, of liability, or the amount thereof, of a person under the  
32 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
33 other imposition, or offense: PROVIDED, That data, material, or  
34 documents that do not disclose information related to a specific or  
35 identifiable taxpayer do not constitute tax information under this  
36 section. Except as provided by RCW 82.32.410, nothing in this chapter

1 shall require any person possessing data, material, or documents made  
2 confidential and privileged by this section to delete information from  
3 such data, material, or documents so as to permit its disclosure;

4 (d) "State agency" means every Washington state office, department,  
5 division, bureau, board, commission, or other state agency;

6 (e) "Taxpayer identity" means the taxpayer's name, address,  
7 telephone number, registration number, or any combination thereof, or  
8 any other information disclosing the identity of the taxpayer; and

9 (f) "Department" means the department of revenue or its officer,  
10 agent, employee, or representative.

11 (2) Returns and tax information shall be confidential and  
12 privileged, and except as authorized by this section, neither the  
13 department of revenue nor any other person may disclose any return or  
14 tax information.

15 (3) The foregoing, however, shall not prohibit the department of  
16 revenue from:

17 (a) Disclosing such return or tax information in a civil or  
18 criminal judicial proceeding or an administrative proceeding:

19 (i) In respect of any tax imposed under the laws of this state if  
20 the taxpayer or its officer or other person liable under Title 82 RCW  
21 is a party in the proceeding; or

22 (ii) In which the taxpayer about whom such return or tax  
23 information is sought and another state agency are adverse parties in  
24 the proceeding;

25 (b) Disclosing, subject to such requirements and conditions as the  
26 director shall prescribe by rules adopted pursuant to chapter 34.05  
27 RCW, such return or tax information regarding a taxpayer to such  
28 taxpayer or to such person or persons as that taxpayer may designate in  
29 a request for, or consent to, such disclosure, or to any other person,  
30 at the taxpayer's request, to the extent necessary to comply with a  
31 request for information or assistance made by the taxpayer to such  
32 other person: PROVIDED, That tax information not received from the  
33 taxpayer shall not be so disclosed if the director determines that such  
34 disclosure would compromise any investigation or litigation by any  
35 federal, state, or local government agency in connection with the civil  
36 or criminal liability of the taxpayer or another person, or that such  
37 disclosure would identify a confidential informant, or that such  
38 disclosure is contrary to any agreement entered into by the department

1 that provides for the reciprocal exchange of information with other  
2 government agencies which agreement requires confidentiality with  
3 respect to such information unless such information is required to be  
4 disclosed to the taxpayer by the order of any court;

5 (c) Disclosing the name of a taxpayer with a deficiency greater  
6 than five thousand dollars and against whom a warrant under RCW  
7 82.32.210 has been either issued or filed and remains outstanding for  
8 a period of at least ten working days. The department shall not be  
9 required to disclose any information under this subsection if a  
10 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
11 a warrant that has not been filed; and (iii) has entered a deferred  
12 payment arrangement with the department of revenue and is making  
13 payments upon such deficiency that will fully satisfy the indebtedness  
14 within twelve months;

15 (d) Disclosing the name of a taxpayer with a deficiency greater  
16 than five thousand dollars and against whom a warrant under RCW  
17 82.32.210 has been filed with a court of record and remains  
18 outstanding;

19 (e) Publishing statistics so classified as to prevent the  
20 identification of particular returns or reports or items thereof;

21 (f) Disclosing such return or tax information, for official  
22 purposes only, to the governor or attorney general, or to any state  
23 agency, or to any committee or subcommittee of the legislature dealing  
24 with matters of taxation, revenue, trade, commerce, the control of  
25 industry or the professions;

26 (g) Permitting the department of revenue's records to be audited  
27 and examined by the proper state officer, his or her agents and  
28 employees;

29 (h) Disclosing any such return or tax information to a peace  
30 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
31 official purposes. The disclosure may be made only in response to a  
32 search warrant, subpoena, or other court order, unless the disclosure  
33 is for the purpose of criminal tax enforcement. A peace officer or  
34 county prosecuting attorney who receives the return or tax information  
35 may disclose that return or tax information only for use in the  
36 investigation and a related court proceeding, or in the court  
37 proceeding for which the return or tax information originally was  
38 sought;

1 (i) Disclosing any such return or tax information to the proper  
2 officer of the internal revenue service of the United States, the  
3 Canadian government or provincial governments of Canada, or to the  
4 proper officer of the tax department of any state or city or town or  
5 county, for official purposes, but only if the statutes of the United  
6 States, Canada or its provincial governments, or of such other state or  
7 city or town or county, as the case may be, grants substantially  
8 similar privileges to the proper officers of this state;

9 (j) Disclosing any such return or tax information to the Department  
10 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the  
11 Department of the Treasury, the Department of Defense, the United  
12 States Customs Service, the Coast Guard of the United States, and the  
13 United States Department of Transportation, or any authorized  
14 representative thereof, for official purposes;

15 (k) Publishing or otherwise disclosing the text of a written  
16 determination designated by the director as a precedent pursuant to RCW  
17 82.32.410;

18 (l) Disclosing, in a manner that is not associated with other tax  
19 information, the taxpayer name, entity type, business address, mailing  
20 address, revenue tax registration numbers, North American industry  
21 classification system or standard industrial classification code of a  
22 taxpayer, and the dates of opening and closing of business. This  
23 subsection shall not be construed as giving authority to the department  
24 to give, sell, or provide access to any list of taxpayers for any  
25 commercial purpose;

26 (m) Disclosing such return or tax information that is also  
27 maintained by another Washington state or local governmental agency as  
28 a public record available for inspection and copying under the  
29 provisions of chapter 42.17 RCW or is a document maintained by a court  
30 of record not otherwise prohibited from disclosure;

31 (n) Disclosing such return or tax information to the United States  
32 department of agriculture for the limited purpose of investigating food  
33 stamp fraud by retailers;

34 (o) Disclosing to a financial institution, escrow company, or title  
35 company, in connection with specific real property that is the subject  
36 of a real estate transaction, current amounts due the department for a  
37 filed tax warrant, judgment, or lien against the real property; ((~~or~~))

1 (p) Disclosing to a person against whom the department has asserted  
2 liability as a successor under RCW 82.32.140 return or tax information  
3 pertaining to the specific business of the taxpayer to which the person  
4 has succeeded; or

5 (q) Disclosing to a local jurisdiction which has contracted with  
6 the department for the administration of its sales and use taxes under  
7 RCW 82.14.050 tax information used to determine the increase or  
8 decrease in the distribution to that local jurisdiction under RCW  
9 82.14.060.

10 (4)(a) The department may disclose return or taxpayer information  
11 to a person under investigation or during any court or administrative  
12 proceeding against a person under investigation as provided in this  
13 subsection (4). The disclosure must be in connection with the  
14 department's official duties relating to an audit, collection activity,  
15 or a civil or criminal investigation. The disclosure may occur only  
16 when the person under investigation and the person in possession of  
17 data, materials, or documents are parties to the return or tax  
18 information to be disclosed. The department may disclose return or tax  
19 information such as invoices, contracts, bills, statements, resale or  
20 exemption certificates, or checks. However, the department may not  
21 disclose general ledgers, sales or cash receipt journals, check  
22 registers, accounts receivable/payable ledgers, general journals,  
23 financial statements, expert's workpapers, income tax returns, state  
24 tax returns, tax return workpapers, or other similar data, materials,  
25 or documents.

26 (b) Before disclosure of any tax return or tax information under  
27 this subsection (4), the department shall, through written  
28 correspondence, inform the person in possession of the data, materials,  
29 or documents to be disclosed. The correspondence shall clearly  
30 identify the data, materials, or documents to be disclosed. The  
31 department may not disclose any tax return or tax information under  
32 this subsection (4) until the time period allowed in (c) of this  
33 subsection has expired or until the court has ruled on any challenge  
34 brought under (c) of this subsection.

35 (c) The person in possession of the data, materials, or documents  
36 to be disclosed by the department has twenty days from the receipt of  
37 the written request required under (b) of this subsection to petition

1 the superior court of the county in which the petitioner resides for  
2 injunctive relief. The court shall limit or deny the request of the  
3 department if the court determines that:

4 (i) The data, materials, or documents sought for disclosure are  
5 cumulative or duplicative, or are obtainable from some other source  
6 that is more convenient, less burdensome, or less expensive;

7 (ii) The production of the data, materials, or documents sought  
8 would be unduly burdensome or expensive, taking into account the needs  
9 of the department, the amount in controversy, limitations on the  
10 petitioner's resources, and the importance of the issues at stake; or

11 (iii) The data, materials, or documents sought for disclosure  
12 contain trade secret information that, if disclosed, could harm the  
13 petitioner.

14 (d) The department shall reimburse reasonable expenses for the  
15 production of data, materials, or documents incurred by the person in  
16 possession of the data, materials, or documents to be disclosed.

17 (e) Requesting information under (b) of this subsection that may  
18 indicate that a taxpayer is under investigation does not constitute a  
19 disclosure of tax return or tax information under this section.

20 (5) Any person acquiring knowledge of any return or tax information  
21 in the course of his or her employment with the department of revenue  
22 and any person acquiring knowledge of any return or tax information as  
23 provided under subsection (3)(f), (g), (h), (i), (j), (~~(n)~~) (n), or  
24 (q) of this section, who discloses any such return or tax information  
25 to another person not entitled to knowledge of such return or tax  
26 information under the provisions of this section, is guilty of a  
27 misdemeanor. If the person guilty of such violation is an officer or  
28 employee of the state, such person shall forfeit such office or  
29 employment and shall be incapable of holding any public office or  
30 employment in this state for a period of two years thereafter.

31 **PART X. MISCELLANEOUS PROVISIONS**

32 NEW SECTION. **Sec. 1001.** Section 302 of this act takes effect  
33 when:

34 (1) The United States congress grants individual states the  
35 authority to impose sales and use tax collection duties on remote  
36 sellers; or

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

4 **Sec. 1002.** 2003 c 168 s 902 (uncodified) is amended to read as  
5 follows:

6 (1) If a court of competent jurisdiction enters a final judgment on  
7 the merits that is based on federal or state law, is no longer subject  
8 to appeal, and substantially limits or impairs the essential elements  
9 of P.L. 106-252, 4 U.S.C. Secs. 116 through 126, or chapter 67, Laws of  
10 2002, then chapter 67, Laws of 2002 is null and void in its entirety,  
11 except as provided in subsection (2) of this section.

12 ~~((If the contingency in subsection (1) of this section occurs,~~  
13 ~~section 502, chapter 168, Laws of 2003 is null and void)) Subsection  
14 (1) of this section does not apply to section 7, chapter 67, Laws of  
15 2002 on or after April 1, 2005.~~

16 NEW SECTION. **Sec. 1003.** Part headings used in this act are not  
17 any part of the law.

18 NEW SECTION. **Sec. 1004.** If any provision of this act or its  
19 application to any person or circumstance is held invalid, the  
20 remainder of the act or the application of the provision to other  
21 persons or circumstances is not affected.

--- END ---