

SUBSTITUTE SENATE BILL 5557

State of Washington **61st Legislature** **2009 Regular Session**

By Senate Ways & Means (originally sponsored by Senator Pridemore)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to adopting the recommendations of the citizen
2 commission for performance measurement of tax preferences to clarify
3 the legislative intent of certain deductions and exemptions; amending
4 RCW 82.04.280, 82.04.280, and 84.36.840; amending 2006 c 300 s 12
5 (uncodified); adding a new section to chapter 82.04 RCW; creating new
6 sections; repealing RCW 84.36.130; providing an effective date;
7 providing a contingent effective date; providing an expiration date;
8 providing a contingent expiration date; and declaring an emergency.

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

10 **Part I.**

11 **Radio and TV Broadcasting**

12 **Sec. 101.** RCW 82.04.280 and 2006 c 300 s 6 are each amended to
13 read as follows:

14 Upon every person engaging within this state in the business of:
15 (1) Printing, and of publishing newspapers, periodicals, or magazines;
16 (2) building, repairing or improving any street, place, road, highway,
17 easement, right-of-way, mass public transportation terminal or parking
18 facility, bridge, tunnel, or trestle which is owned by a municipal

1 corporation or political subdivision of the state or by the United
2 States and which is used or to be used, primarily for foot or vehicular
3 traffic including mass transportation vehicles of any kind and
4 including any readjustment, reconstruction or relocation of the
5 facilities of any public, private or cooperatively owned utility or
6 railroad in the course of such building, repairing or improving, the
7 cost of which readjustment, reconstruction, or relocation, is the
8 responsibility of the public authority whose street, place, road,
9 highway, easement, right-of-way, mass public transportation terminal or
10 parking facility, bridge, tunnel, or trestle is being built, repaired
11 or improved; (3) extracting for hire or processing for hire, except
12 persons taxable as extractors for hire or processors for hire under
13 another section of this chapter; (4) operating a cold storage warehouse
14 or storage warehouse, but not including the rental of cold storage
15 lockers; (5) representing and performing services for fire or casualty
16 insurance companies as an independent resident managing general agent
17 (~~licensed under the provisions of RCW 48.05.310~~); (6) radio and
18 television broadcasting, excluding network, national and regional
19 advertising computed as a standard deduction (~~based on the national~~
20 ~~average thereof as annually reported by the Federal Communications~~
21 ~~Commission~~), which the department must publish by rule every fifth
22 year by September 30th, or in lieu thereof by itemization by the
23 individual broadcasting station, and excluding that portion of revenue
24 represented by the out-of-state audience computed as a ratio to the
25 station's total audience as measured by the 100 micro-volt signal
26 strength and delivery by wire, if any; (7) engaging in activities which
27 bring a person within the definition of consumer contained in RCW
28 82.04.190(6); as to such persons, the amount of tax on such business
29 shall be equal to the gross income of the business multiplied by the
30 rate of 0.484 percent.

31 As used in this section, "cold storage warehouse" means a storage
32 warehouse used to store fresh and/or frozen perishable fruits or
33 vegetables, meat, seafood, dairy products, or fowl, or any combination
34 thereof, at a desired temperature to maintain the quality of the
35 product for orderly marketing.

36 As used in this section, "storage warehouse" means a building or
37 structure, or any part thereof, in which goods, wares, or merchandise
38 are received for storage for compensation, except field warehouses,

1 fruit warehouses, fruit packing plants, warehouses licensed under
2 chapter 22.09 RCW, public garages storing automobiles, railroad freight
3 sheds, docks and wharves, and "self-storage" or "mini storage"
4 facilities whereby customers have direct access to individual storage
5 areas by separate entrance. "Storage warehouse" does not include a
6 building or structure, or that part of such building or structure, in
7 which an activity taxable under RCW 82.04.272 is conducted.

8 As used in this section, "periodical or magazine" means a printed
9 publication, other than a newspaper, issued regularly at stated
10 intervals at least once every three months, including any supplement or
11 special edition of the publication.

12 **Sec. 102.** RCW 82.04.280 and 2006 c 300 s 7 are each amended to
13 read as follows:

14 Upon every person engaging within this state in the business of:
15 (1) Printing, and of publishing newspapers, periodicals, or magazines;
16 (2) building, repairing or improving any street, place, road, highway,
17 easement, right-of-way, mass public transportation terminal or parking
18 facility, bridge, tunnel, or trestle which is owned by a municipal
19 corporation or political subdivision of the state or by the United
20 States and which is used or to be used, primarily for foot or vehicular
21 traffic including mass transportation vehicles of any kind and
22 including any readjustment, reconstruction or relocation of the
23 facilities of any public, private or cooperatively owned utility or
24 railroad in the course of such building, repairing or improving, the
25 cost of which readjustment, reconstruction, or relocation, is the
26 responsibility of the public authority whose street, place, road,
27 highway, easement, right-of-way, mass public transportation terminal or
28 parking facility, bridge, tunnel, or trestle is being built, repaired
29 or improved; (3) extracting for hire or processing for hire, except
30 persons taxable as extractors for hire or processors for hire under
31 another section of this chapter; (4) operating a cold storage warehouse
32 or storage warehouse, but not including the rental of cold storage
33 lockers; (5) representing and performing services for fire or casualty
34 insurance companies as an independent resident managing general agent
35 (~~licensed under the provisions of RCW 48.05.310~~); (6) radio and
36 television broadcasting, excluding network, national and regional
37 advertising computed as a standard deduction (~~based on the national~~

1 ~~average thereof as annually reported by the Federal Communications~~
2 ~~Commission)), which the department must publish by rule every fifth
3 year by September 30th, or in lieu thereof by itemization by the
4 individual broadcasting station, and excluding that portion of revenue
5 represented by the out-of-state audience computed as a ratio to the
6 station's total audience as measured by the 100 micro-volt signal
7 strength and delivery by wire, if any; (7) engaging in activities which
8 bring a person within the definition of consumer contained in RCW
9 82.04.190(6); as to such persons, the amount of tax on such business
10 shall be equal to the gross income of the business multiplied by the
11 rate of 0.484 percent.~~

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13 warehouse used to store fresh and/or frozen perishable fruits or
14 vegetables, meat, seafood, dairy products, or fowl, or any combination
15 thereof, at a desired temperature to maintain the quality of the
16 product for orderly marketing.

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18 structure, or any part thereof, in which goods, wares, or merchandise
19 are received for storage for compensation, except field warehouses,
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22 sheds, docks and wharves, and "self-storage" or "mini storage"
23 facilities whereby customers have direct access to individual storage
24 areas by separate entrance. "Storage warehouse" does not include a
25 building or structure, or that part of such building or structure, in
26 which an activity taxable under RCW 82.04.272 is conducted.

27 As used in this section, "periodical or magazine" means a printed
28 publication, other than a newspaper, issued regularly at stated
29 intervals at least once every three months, including any supplement or
30 special edition of the publication.

31 NEW SECTION. **Sec. 103.** A new section is added to chapter 82.04
32 RCW to read as follows:

33 For the standard deduction in RCW 82.04.280(6), the department must
34 study radio and television broadcasting, excluding network, national
35 and regional advertising to establish the standard deduction computed
36 as a ratio of the network, national and regional advertising revenue to
37 the total advertising revenue of the radio or television station

1 expressed as a percentage. The department must complete the study
2 using the best available information. This study must be completed by
3 August 1, 2009, and the standard deduction must be published by rule by
4 December 1, 2009. The study must be repeated every fifth year
5 thereafter by March 30th and the rule must be published every fifth
6 year by September 30th.

7 **Part II.**

8 **Nonprofit Property Tax Exemptions**

9 NEW SECTION. **Sec. 201.** (1) The legislature recognizes the rich
10 and diverse traditions represented by Washington's nonprofit homes for
11 the sick or infirm and nonprofit hospitals for the sick and the value
12 they provide to the residents and communities they serve as well as the
13 employees who provide loving compassionate care.

14 (2) The legislature finds requiring uniform and public reporting of
15 community benefit is one way these facilities can continue to
16 demonstrate the value provided in a manner consistent with the values
17 of transparency and public accountability. Further, the legislature
18 finds that Washington should adopt national standards for reporting of
19 community benefits for nonprofit hospitals and consistent reporting
20 standards for nonprofit homes for the sick or infirm.

21 **Sec. 202.** RCW 84.36.840 and 2007 c 111 s 305 are each amended to
22 read as follows:

23 (1) In order to determine whether organizations, associations,
24 corporations, or institutions, except those exempted under RCW
25 84.36.020 and 84.36.030, are exempt from property taxes, and before the
26 exemption (~~shall be~~) is allowed for any year, the superintendent or
27 manager or other proper officer of the organization, association,
28 corporation, or institution claiming exemption from taxation (~~shall~~)
29 must file with the department of revenue a statement certifying that
30 the income and the receipts thereof, including donations to it, have
31 been applied to the actual expenses of operating and maintaining it, or
32 for its capital expenditures, and to no other purpose. This report
33 (~~shall~~) must also include a statement of the receipts and
34 disbursements of the exempt organization, association, corporation, or
35 institution.

1 (2) Educational institutions claiming exemption under RCW 84.36.050
2 (~~shall~~) must also file a list of all property claimed to be exempt,
3 the purpose for which it is used, the revenue derived from it for the
4 preceding year, the use to which the revenue was applied, the number of
5 students who attended the school or college, the total revenues of the
6 institution with the source from which they were derived, and the
7 purposes to which the revenues were applied, listing the items of such
8 revenues and expenditures in detail.

9 (3) Nonprofit homes for the sick or infirm and nonprofit hospitals
10 for the sick claiming exemptions under RCW 84.36.040(1) (c) and (d)
11 must also file on an annual basis no later than June 30th of each year,
12 with the department of revenue a community benefit report for the
13 preceding year. Nonprofit hospitals for the sick must file a copy of
14 the federal income tax form 990 "Schedule H" with the department to
15 report data on community benefits, including charity care. Nonprofit
16 homes for the sick or infirm must file a report on community benefits,
17 including charity care, on a standardized form developed by the
18 department. The standardized form must provide the same or similar
19 relevant data as required for the federal income tax form 990 "Schedule
20 H" to report data on community benefits, including charity care.
21 Reports filed under this subsection must be submitted electronically to
22 the department by June 30, 2010, for community benefits provided during
23 calendar year 2009, and by June 30th in each subsequent year
24 thereafter. The department must provide electronic notice of the
25 filing due date by May 31st of each year. The department may waive the
26 requirement to file reports electronically for good cause shown. If
27 the report is not received by the filing deadline, the exemption must
28 be removed.

29 (4) The reports required under subsections (1) and (2) of this
30 section may be submitted electronically, in a format provided or
31 approved by the department, or mailed to the department. The reports
32 (~~shall~~) must be submitted on or before March 31st of each year. The
33 department (~~shall~~) must remove the tax exemption from the property of
34 any organization, association, corporation, or institution that does
35 not file the required report with the department on or before the due
36 date. However, the department (~~shall~~) must allow a reasonable
37 extension of time for filing upon receipt of a written request on or
38 before the required filing date and for good cause shown therein.

1 **Part III.**

2 **Tax Exemption Repeals**

3 NEW SECTION. **Sec. 301.** RCW 84.36.130 (Airport property in this
4 state for smaller airports belonging to municipalities of adjoining
5 states) and 1998 c 201 s 1 & 1961 c 15 s 84.36.130 are each repealed.

6 **Part IV.**

7 **Miscellaneous Provisions**

8 NEW SECTION. **Sec. 401.** Part headings used in this act are not any
9 part of the law.

10 **Sec. 402.** 2006 c 300 s 12 (uncodified) is amended to read as
11 follows:

12 (1)(a) (~~(This act and)~~) Section 102, chapter . . . , Laws of 2009
13 (section 102 of this act), section 7, chapter 300, Laws of 2006, and
14 section 4, chapter 149, Laws of 2003 are contingent upon the siting and
15 commercial operation of a significant semiconductor microchip
16 fabrication facility in the state of Washington.

17 (b) For the purposes of this section:

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

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

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

25 (2) (~~(This act)~~) Chapter 149, Laws of 2003 takes effect the first
26 day of the month in which a contract for the construction of a
27 significant semiconductor fabrication facility is signed, as determined
28 by the director of the department of revenue.

29 (3)(a) The department of revenue (~~(shall)~~) must provide notice of
30 the effective date of this act to affected taxpayers, the legislature,
31 and others as deemed appropriate by the department.

32 (b) If, after making a determination that a contract has been
33 signed and (~~(this act)~~) chapter 149, Laws of 2003 is effective, the
34 department discovers that commencement of commercial production did not
35 take place within three years of the date the contract was signed, the

1 department (~~shall~~) must make a determination that (~~this act~~)
2 chapter 149, Laws of 2003 is no longer effective, and all taxes that
3 would have been otherwise due (~~shall be~~) are deemed deferred taxes
4 and are immediately assessed and payable from any person reporting tax
5 under RCW 82.04.240(2) or claiming an exemption or credit under section
6 2 or 5 through 10 (~~of this act~~), chapter 149, Laws of 2003. The
7 department is not authorized to make a second determination regarding
8 the effective date of (~~this act~~) chapter 149, Laws of 2003.

9 NEW SECTION. Sec. 403. (1) Section 103 of this act is necessary
10 for the immediate preservation of the public peace, health, or safety,
11 or support of the state government and its existing public
12 institutions, and takes effect July 1, 2009.

13 (2) Section 102 of this act takes effect if the contingency in
14 section 402 of this act occurs.

15 NEW SECTION. Sec. 404. Section 101 of this act expires on the
16 date that section 102 of this act takes effect.

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