
SENATE BILL 5688

State of Washington

63rd Legislature

2013 Regular Session

By Senators Braun, Carrell, Dammeier, Rivers, Sheldon, and Hobbs

Read first time 02/08/13. Referred to Committee on Trade & Economic Development.

1 AN ACT Relating to simplifying definitions and classifications
2 concerning state and local tax systems; amending RCW 35.102.030,
3 35.102.040, 35.102.140, 35.102.160, 82.04.060, 82.04.230, 82.04.255,
4 82.04.260, 82.04.280, 82.04.285, 82.04.290, 35.102.150, 48.14.080,
5 82.04.051, 82.04.257, 82.04.261, 82.04.270, 82.04.29001, 82.04.29002,
6 82.04.293, 82.04.297, 82.04.298, 82.04.334, 82.04.360, 82.04.440,
7 82.04.4451, 82.04.44525, 82.04.4463, 82.04.4483, 82.04.460, 82.04.540,
8 82.04.620, 82.08.806, 82.16.100, 82.32.045, 82.32.533, and 82.45.195;
9 reenacting and amending RCW 82.04.250 and 82.04.260; adding new
10 sections to chapter 35.102 RCW; adding a new section to chapter 82.04
11 RCW; creating new sections; repealing RCW 82.04.272, 82.04.2905,
12 82.04.2906, 82.04.2907, 82.04.2908, 82.04.2909, 82.04.294, and
13 35.102.120; repealing 2010 c 114 s 104; repealing 2003 c 149 s 3;
14 repealing 2010 c 106 s 206; repealing 2009 c 461 s 3; repealing 2006 c
15 300 s 7; repealing 2003 c 149 s 4; providing effective dates; and
16 providing expiration dates.

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

18 **PART I**

19 **INCREASING UNIFORMITY BETWEEN STATE AND LOCAL B&O TAXES**

1 **Sec. 101.** RCW 35.102.030 and 2003 c 79 s 3 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter (~~(79,~~
4 ~~Laws of 2003,~~) unless the context clearly requires otherwise.

5 (1) "Business" has the same meaning as given in chapter 82.04 RCW.

6 (2) "City" means a city, town, or code city.

7 (3) "Business and occupation tax" or "gross receipts tax" means a
8 tax imposed on or measured by the value of products, the gross income
9 of the business, or the gross proceeds of sales, as the case may be,
10 and that is the legal liability of the business.

11 (4) "Value of products" has the same meaning as given in chapter
12 82.04 RCW.

13 (5) "Gross income of the business" has the same meaning as given in
14 chapter 82.04 RCW.

15 (6) "Gross proceeds of sales" has the same meaning as given in
16 chapter 82.04 RCW.

17 (7) "Department" means the department of revenue.

18 (8) "State business and occupation tax" means the tax imposed in
19 chapter 82.04 RCW.

20 (9) "State business and occupation tax definitions" means the
21 definitions in chapter 82.04 RCW, rules adopted by the department to
22 administer chapter 82.04 RCW, and interpretive statements or other
23 public guidance issued by the department relating to the tax imposed in
24 chapter 82.04 RCW.

25 (10) "City business and occupation tax" means a business and
26 occupation tax imposed by a city.

27 (11) "Service and other business activities classification" means
28 the classification under which an activity is taxed if it is not taxed
29 under some other classification.

30 **Sec. 102.** RCW 35.102.040 and 2010 c 271 s 706 are each amended to
31 read as follows:

32 (1)(a) (~~The cities, working through the association of Washington~~
33 ~~cities, shall form a model ordinance development committee made up of~~
34 ~~a representative sampling of cities that as of July 27, 2003, impose a~~
35 ~~business and occupation tax. This committee shall work through the~~
36 ~~association of Washington cities to adopt a model ordinance on~~
37 ~~municipal gross receipts business and occupation tax. The model~~

1 ~~ordinance and subsequent amendments shall))~~ After June 30, 2013, only
2 the department may amend the city business and occupation tax model
3 ordinance. Beginning July 1, 2013, the department may amend the model
4 ordinance as it deems appropriate. Amendments, other than those
5 required to conform with changes to state law, must be adopted using a
6 process that includes opportunity for substantial input from cities,
7 individually or through the association of Washington cities, business
8 stakeholders, and other members of the public. Input (~~shall~~) must be
9 solicited from statewide business associations and from local chambers
10 of commerce and downtown business associations in cities that levy a
11 business and occupation tax.

12 (b) The department of commerce (~~shall~~) must contract to post the
13 model ordinance on an internet web site and to make paper copies
14 available for inspection upon request. The department of revenue and
15 the department of licensing (~~shall~~) must post copies of or links to
16 the model ordinance on their internet web sites. Additionally, a city
17 that imposes a business and occupation tax must make copies of its
18 ordinance available for inspection and copying as provided in chapter
19 42.56 RCW.

20 (~~(c) The definitions and tax classifications in the model~~
21 ~~ordinance may not be amended more frequently than once every four~~
22 ~~years, however the model ordinance may be amended at any time to comply~~
23 ~~with changes in state law. Any amendment to a mandatory provision of~~
24 ~~the model ordinance must be adopted with the same effective date by all~~
25 ~~cities.))~~

26 (2) A city that imposes a business and occupation tax must adopt
27 the mandatory provisions of the model ordinance. The following
28 provisions are mandatory:

29 (a) (~~A system of credits that meets the requirements of RCW~~
30 ~~35.102.060 and a form for such use;~~

31 ~~(b))~~ A uniform, minimum small business tax threshold of at least
32 the equivalent of twenty thousand dollars in gross income annually. A
33 city may elect to deviate from this requirement by creating a higher
34 threshold or exemption but it shall not deviate lower than the level
35 required in this subsection. If a city has a small business threshold
36 or exemption in excess of that provided in this subsection as of
37 January 1, 2003, and chooses to deviate below the threshold or
38 exemption level that was in place as of January 1, 2003, the city must

1 notify all businesses licensed to do business within the city at least
2 one hundred twenty days prior to the potential implementation of a
3 lower threshold or exemption amount;

4 ~~((+e))~~ (b) Tax reporting frequencies that meet the requirements of
5 RCW 35.102.070;

6 ~~((+d))~~ (c) Penalty and interest provisions that meet the
7 requirements of RCW 35.102.080 and 35.102.090;

8 ~~((+e))~~ (d) Claim periods that meet the requirements of RCW
9 35.102.100;

10 ~~((+f))~~ (e) Refund provisions that meet the requirements of RCW
11 35.102.110; ~~((and~~

12 ~~(g) Definitions, which at a minimum, must include the definitions~~
13 ~~enumerated in RCW 35.102.030 and 35.102.120. The definitions in~~
14 ~~chapter 82.04 RCW shall be used as the baseline for all definitions in~~
15 ~~the model ordinance, and any deviation in the model ordinance from~~
16 ~~these definitions must be described by a comment in the model~~
17 ~~ordinance.~~

18 ~~(+3))~~ (f) Provisions consistent with RCW 82.04.480 and 82.04.520;

19 (g)(i) Tax classifications for reporting purposes that include all
20 of the state business and occupation tax classifications, including
21 those created in RCW 82.04.230 through 82.04.298, classifications
22 created after the effective date of this section and codified outside
23 of those statutes, and any classifications created by the department
24 under the authority of section 202 of this act.

25 (ii) The model ordinance may not include:

26 (A) Any classifications that are not used for state business and
27 occupation tax purposes;

28 (B) Any classifications for persons taxable under the state public
29 utility tax classification engaging in the following activities:
30 Hauling persons or property for hire by watercraft between points in
31 Washington; operating tugboats of any size and income from the sale of
32 transportation services by vessels over sixty-five feet; sales of
33 transportation services using vessels under sixty-five feet, other than
34 tugboats; or persons engaged in chartering or transporting persons by
35 water from one location in Washington to another location within this
36 state. This subsection (2)(g)(i)(B) does not include sightseeing tours
37 or activities that are in the nature of guided tours where the tour may
38 include some water transportation; and

1 (C) Any classifications for persons taxable under the state
2 business and occupation tax classifications of motor transportation or
3 urban transportation; and

4 (h)(i) A provision stating that the state business and occupation
5 tax definitions apply to the model ordinance and any city's business
6 and occupation tax in the same manner as they apply for purposes of
7 chapter 82.04 RCW. Any deviation in the model ordinance from these
8 definitions is only permitted when expressly provided for by statute.
9 If a deviation is allowed by statute, such definition must be stated in
10 full in the model ordinance. Further, any deviation in the definitions
11 allowed is subject to the publication requirements in subsection (5) of
12 this section.

13 (ii) Except as provided otherwise in this subsection, a city may
14 not, for purposes of its business and occupation tax, deviate from the
15 state business and occupation tax definitions in its ordinances, rules,
16 other public guidance, and interpretations.

17 (iii) For purposes of complying with this subsection (2)(h),
18 references to the department in state business and occupation tax
19 definitions must be construed as references to the city or cities,
20 unless the context clearly requires otherwise.

21 (iv) For purposes of complying with this subsection (2)(h),
22 references to the state in state business and occupation tax
23 definitions must be construed as references to the city or cities,
24 unless the context clearly requires otherwise.

25 (v) Any portion of a state business and occupation tax definition
26 that relates solely to sales or use tax or otherwise does not apply to
27 the tax imposed in chapter 82.04 RCW does not apply to the model
28 ordinance or business and occupation taxes imposed by the cities.

29 (vi) Except as otherwise provided in this section, the cities and
30 the model ordinance need not adopt any exclusionary language contained
31 in a state business and occupation tax definition, but only if the
32 exclusionary language has the effect of exempting a person, activity,
33 or income from the tax imposed in chapter 82.04 RCW.

34 (vii) Notwithstanding (h)(vi) of this subsection (2), a city may
35 not deviate from the exclusion in RCW 82.04.062 from the definitions of
36 "wholesale sale," "sale at wholesale," "retail sale," and "sale at
37 retail." Cities imposing a business and occupation tax must compute

1 tax on the business of making sales of precious metal bullion or
2 monetized bullion consistent with RCW 82.04.062.

3 (viii) Notwithstanding (h)(vii) of this subsection (2), cities may
4 not deviate from the exclusion in RCW 82.04.216 of steam, electricity,
5 and electrical energy from various terms denoting tangible items that
6 may be used, sold, or consumed.

7 (ix) Language in a state business and occupation tax definition
8 governing how the defined term is to be applied for state business and
9 occupation tax purposes also applies for purposes of city business and
10 occupation taxes.

11 (3) Tax classifications must be uniform among all cities and with
12 state business and occupation tax classifications.

13 (4) Except for the deduction required by RCW 35.102.160 and the
14 system of credits developed to address multiple taxation ((under
15 subsection (2)(a) of this section)), a city may adopt its own
16 provisions for tax rates, tax exemptions, tax credits, and tax
17 deductions.

18 ~~((+4))~~ (5) Any city that adopts an ordinance that deviates from
19 the nonmandatory provisions of the model ordinance ((shall)) must make
20 a description of such differences available to the department for
21 publication by the department to the public(, in written and
22 electronic form)).

23 **Sec. 103.** RCW 35.102.140 and 2003 c 79 s 14 are each amended to
24 read as follows:

25 ~~((Cities imposing business and occupation taxes must comply with~~
26 ~~all requirements of RCW 35.102.020 through 35.102.130 by December 31,~~
27 ~~2004. A city that has not complied with the requirements of RCW~~
28 ~~35.102.020 through 35.102.130 by December 31, 2004, may not impose a~~
29 ~~tax that is imposed by a city on the privilege of engaging in business~~
30 ~~activities.)) (1) Cities imposing business and occupation taxes after~~
31 ~~December 31, 2004, must comply with ((RCW 35.102.020 through~~
32 ~~35.102.130)) this chapter.~~

33 (2) The department may issue official written guidance on any
34 provision of a city's business and occupation tax that is required by
35 this chapter to be administered consistently with the state business
36 and occupation tax. Any such official public guidance issued by the
37 department preempts any conflicting interpretation of the city.

1 Likewise, any official public guidance issued by the department on a
2 state business and occupation tax matter preempts any conflicting
3 interpretation by the city on a matter involving a provision of the
4 city's business and occupation tax that is required by this chapter to
5 be administered consistently with the state business and occupation
6 tax. Nothing in this subsection is intended to affect the
7 interpretation or application of a city's business and occupation tax
8 for periods before the effective date of this section.

9 **Sec. 104.** RCW 35.102.160 and 2006 c 301 s 6 are each amended to
10 read as follows:

11 (1) The provision of professional employer services by a
12 professional employer organization is taxable under a city's service
13 and other business activities classification. A city that imposes its
14 business and occupation tax on professional employer services performed
15 by a professional employer organization(~~(, regardless of the tax~~
16 ~~classification applicable to such services, shall))~~ must provide a
17 deduction identical to the deduction in RCW 82.04.540(2).

18 (2) For the purposes of this section, "professional employer
19 organization" and "professional employer services" have the same
20 meanings as in RCW 82.04.540.

21 NEW SECTION. **Sec. 105.** A new section is added to chapter 35.102
22 RCW to read as follows:

23 Beginning on the effective date of this section, the department may
24 adopt rules and issue interpretive and policy statements in accordance
25 with the administrative procedure act, chapter 34.05 RCW, as it
26 considers necessary or useful in enhancing uniformity between state and
27 city business and occupation taxes and in carrying out the department's
28 duties under this chapter. Such rules and interpretive and policy
29 statements take precedence over any conflicting rules and interpretive
30 or policy guidance issued by the cities. The department must seek
31 input from affected cities before issuing any rules and interpretive
32 and policy statements concerning city business and occupation taxes to
33 the extent required by chapter 34.05 RCW.

34 NEW SECTION. **Sec. 106.** A new section is added to chapter 35.102
35 RCW to read as follows:

1 For purposes of city business and occupation taxes, a person may
2 meet its burden of proving that a sale is a wholesale sale rather than
3 a retail sale as provided in RCW 82.04.470. Upon request of a city,
4 the department must assist the city in determining whether a person has
5 met the requirements of RCW 82.04.470(6).

6 **PART II**
7 **REDUCING STATE B&O TAX CLASSIFICATIONS**

8 NEW SECTION. **Sec. 201.** (1) The legislature finds that there are
9 currently over fifty tax classifications for purposes of the state
10 business and occupation tax. Most of these tax classifications were
11 created to provide a reduced tax rate to certain business activities.

12 (2) The legislature further finds that the considerable number of
13 state business and occupation tax classifications creates complexity
14 for taxpayers, increases opportunities for disputes between taxpayers
15 and the department of revenue, and is a major barrier to achieving
16 significant uniformity between state and local business and occupation
17 tax systems.

18 (3) Therefore, the legislature intends Part II of this act to
19 significantly reduce state business and occupation tax classifications
20 by:

21 (a) Consolidating the extracting and extracting for hire
22 classifications;

23 (b) Consolidating the public road construction and government
24 contracting classifications into the wholesaling classification; and

25 (c) Consolidating the public and nonprofit hospital and real estate
26 broker classifications into the catch-all service and other business
27 activities classification.

28 (4) Part II of this act is not intended to materially affect the
29 tax burden of any person. If any provision of sections 202 through 238
30 of this act would, under a plain meaning analysis, materially impact a
31 person's tax liability, the legislature expresses its intent that such
32 provision should be deemed a mistake and interpreted to achieve a
33 result that is consistent with the legislature's intent as described in
34 this section.

1 NEW SECTION. **Sec. 202.** A new section is added to chapter 82.04
2 RCW to read as follows:

3 (1) Except as provided otherwise in subsection (2) of this section,
4 for purposes of reporting the tax due under this chapter in a way that
5 provides taxpayers with more consistency between state and city-imposed
6 business and occupation taxes or for ease of administration for the
7 department or taxpayers, the department may classify business
8 activities other than as provided in RCW 82.04.230 through 82.04.298.
9 However, new classifications created under the authority of this
10 section do not affect the tax rates applicable to the activities that
11 come within the new classifications.

12 (2) The department may not consolidate the manufacturing and
13 processing for hire classifications.

14 **Sec. 203.** RCW 82.04.060 and 2010 c 106 s 203 are each amended to
15 read as follows:

16 "Sale at wholesale" or "wholesale sale" means:

17 (1) Any sale, which is not a sale at retail, of:

18 (a) Tangible personal property;

19 (b) Services defined as a retail sale in RCW 82.04.050(2) (a) or
20 (g);

21 (c) Amusement or recreation services as defined in RCW
22 82.04.050(3)(a);

23 (d) Prewritten computer software;

24 (e) Services described in RCW 82.04.050(6)(b);

25 (f) Extended warranties as defined in RCW 82.04.050(7);

26 (g) Competitive telephone service, ancillary services, or
27 telecommunications service as those terms are defined in RCW 82.04.065;
28 or

29 (h) Digital goods, digital codes, or digital automated services;

30 (2) Any charge made for labor and services rendered for persons who
31 are not consumers, in respect to real or personal property, if such
32 charge is expressly defined as a retail sale by RCW 82.04.050 when
33 rendered to or for consumers. For the purposes of this subsection (2),
34 "real or personal property" does not include any natural products named
35 in RCW 82.04.100; (~~and~~)

36 (3) The sale of any service for resale, if the sale is excluded

1 from the definition of "sale at retail" and "retail sale" in RCW
2 82.04.050(14); and

3 (4) Any sale of or charge made for labor and services if the sale
4 or charge is excluded from the definition of retail sale in RCW
5 82.04.050 (10) or (12). Nothing in this subsection may be construed as
6 affecting the status of persons providing such services to consumers as
7 provided in RCW 82.04.190.

8 **Sec. 204.** RCW 82.04.230 and 2006 c 300 s 5 are each amended to
9 read as follows:

10 (1) Upon every person engaging within this state in business as an
11 extractor or extractor for hire, except persons taxable as an extractor
12 or extractor for hire under any other provision in this chapter; as to
13 such persons the amount of the tax with respect to such business
14 ((shall be)) is, in the case of extractors, equal to the value of the
15 products, including by-products, extracted for sale or for commercial
16 or industrial use, and, in the case of extractors for hire, the gross
17 income of the business of extracting for hire, multiplied by the rate
18 of 0.484 percent.

19 (2) The measure of the tax on extractors is the value of the
20 products, including by-products, so extracted, regardless of the place
21 of sale or the fact that deliveries may be made to points outside the
22 state.

23 **Sec. 205.** RCW 82.04.250 and 2010 1st sp.s. c 23 s 509 are each
24 reenacted and amended to read as follows:

25 (1) Upon every person engaging within this state in the business of
26 making sales at retail, except persons taxable ((as retailers)) under
27 other provisions of this chapter on the business of making sales at
28 retail, as to such persons, the amount of tax with respect to such
29 business is equal to the gross proceeds of sales of the business,
30 multiplied by the rate of 0.471 percent.

31 (2) Upon every person engaging within this state in the business of
32 making sales at retail that are exempt from the tax imposed under
33 chapter 82.08 RCW by reason of RCW 82.08.0261, 82.08.0262, or
34 82.08.0263, except persons taxable under ((RCW 82.04.260(10) or))
35 subsection (3) of this section, as to such persons, the amount of tax

1 with respect to such business is equal to the gross proceeds of sales
2 of the business, multiplied by the rate of 0.484 percent.

3 (3) Until July 1, 2024, upon every person classified by the federal
4 aviation administration as a federal aviation regulation part 145
5 certificated repair station and that is engaging within this state in
6 the business of making sales at retail that are exempt from the tax
7 imposed under chapter 82.08 RCW by reason of RCW 82.08.0261,
8 82.08.0262, or 82.08.0263, as to such persons, the amount of tax with
9 respect to such business is equal to the gross proceeds of sales of the
10 business, multiplied by the rate of .2904 percent.

11 **Sec. 206.** RCW 82.04.255 and 2011 c 322 s 2 are each amended to
12 read as follows:

13 (1) (~~Upon every person engaging within the state in~~) The business
14 of providing real estate brokerage services(~~(; as to such persons, the~~
15 ~~amount of the tax with respect to such business is equal to the gross~~
16 ~~income of the business, multiplied by the rate of 1.5 percent)~~) is
17 subject to tax under RCW 82.04.290.

18 (2) The measure of the tax on real estate commissions earned by the
19 real estate firm is the gross commission earned by the particular real
20 estate firm including that portion of the commission paid to brokers,
21 including designated and managing brokers, in the same firm on a
22 particular transaction. However, when a real estate commission on a
23 particular transaction is divided among real estate firms at the
24 closing of the transaction, including a firm located out of state, each
25 firm must pay the tax only upon its respective shares of said
26 commission. Moreover, when the real estate firm has paid the tax as
27 provided herein, brokers, including designated and managing brokers,
28 within the same real estate firm may not be required to pay a similar
29 tax upon the same transaction. If any firm located out of state
30 receives a share of commission on a particular transaction, that
31 company or broker must pay the tax based on the requirements of this
32 section and RCW 82.04.067.

33 (3) For the purposes of this section, "broker," "designated
34 broker," "managing broker," and "real estate firm" have the same
35 meaning as provided in RCW 18.85.011.

1 **Sec. 207.** RCW 82.04.260 and 2012 2nd sp.s. c 6 s 602 and 2012 2nd
2 sp.s. c 6 s 204 are each reenacted and amended to read as follows:

3 (1) ~~((Upon every person engaging within this state in the business~~
4 ~~of manufacturing:~~

5 ~~(a) Wheat into flour, barley into pearl barley, soybeans into~~
6 ~~soybean oil, canola into canola oil, canola meal, or canola by-~~
7 ~~products, or sunflower seeds into sunflower oil; as to such persons the~~
8 ~~amount of tax with respect to such business is equal to the value of~~
9 ~~the flour, pearl barley, oil, canola meal, or canola by-product~~
10 ~~manufactured, multiplied by the rate of 0.138 percent;~~

11 ~~(b) Beginning July 1, 2015, seafood products that remain in a raw,~~
12 ~~raw frozen, or raw salted state at the completion of the manufacturing~~
13 ~~by that person; or selling manufactured seafood products that remain in~~
14 ~~a raw, raw frozen, or raw salted state at the completion of the~~
15 ~~manufacturing, to purchasers who transport in the ordinary course of~~
16 ~~business the goods out of this state; as to such persons the amount of~~
17 ~~tax with respect to such business is equal to the value of the products~~
18 ~~manufactured or the gross proceeds derived from such sales, multiplied~~
19 ~~by the rate of 0.138 percent. Sellers must keep and preserve records~~
20 ~~for the period required by RCW 82.32.070 establishing that the goods~~
21 ~~were transported by the purchaser in the ordinary course of business~~
22 ~~out of this state;~~

23 ~~(c) Beginning July 1, 2015, dairy products that as of September 20,~~
24 ~~2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,~~
25 ~~including by products from the manufacturing of the dairy products such~~
26 ~~as whey and casein; or selling the same to purchasers who transport in~~
27 ~~the ordinary course of business the goods out of state; as to such~~
28 ~~persons the tax imposed is equal to the value of the products~~
29 ~~manufactured or the gross proceeds derived from such sales multiplied~~
30 ~~by the rate of 0.138 percent. Sellers must keep and preserve records~~
31 ~~for the period required by RCW 82.32.070 establishing that the goods~~
32 ~~were transported by the purchaser in the ordinary course of business~~
33 ~~out of this state;~~

34 ~~(d) Beginning July 1, 2015, fruits or vegetables by canning,~~
35 ~~preserving, freezing, processing, or dehydrating fresh fruits or~~
36 ~~vegetables, or selling at wholesale fruits or vegetables manufactured~~
37 ~~by the seller by canning, preserving, freezing, processing, or~~
38 ~~dehydrating fresh fruits or vegetables and sold to purchasers who~~

1 ~~transport in the ordinary course of business the goods out of this~~
2 ~~state; as to such persons the amount of tax with respect to such~~
3 ~~business is equal to the value of the products manufactured or the~~
4 ~~gross proceeds derived from such sales multiplied by the rate of 0.138~~
5 ~~percent. — Sellers must keep and preserve records for the period~~
6 ~~required by RCW 82.32.070 establishing that the goods were transported~~
7 ~~by the purchaser in the ordinary course of business out of this state;~~

8 ~~(e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel~~
9 ~~feedstock, as those terms are defined in RCW 82.29A.135; as to such~~
10 ~~persons the amount of tax with respect to the business is equal to the~~
11 ~~value of alcohol fuel, biodiesel fuel, or biodiesel feedstock~~
12 ~~manufactured, multiplied by the rate of 0.138 percent; and~~

13 ~~(f) Wood biomass fuel as defined in RCW 82.29A.135; as to such~~
14 ~~persons the amount of tax with respect to the business is equal to the~~
15 ~~value of wood biomass fuel manufactured, multiplied by the rate of~~
16 ~~0.138 percent.~~

17 ~~(2) Upon every person engaging within this state in the business of~~
18 ~~splitting or processing dried peas; as to such persons the amount of~~
19 ~~tax with respect to such business is equal to the value of the peas~~
20 ~~split or processed, multiplied by the rate of 0.138 percent.~~

21 ~~(3) Upon every nonprofit corporation and nonprofit association~~
22 ~~engaging within this state in research and development, as to such~~
23 ~~corporations and associations, the amount of tax with respect to such~~
24 ~~activities is equal to the gross income derived from such activities~~
25 ~~multiplied by the rate of 0.484 percent.~~

26 ~~(4) Upon every person engaging within this state in the business of~~
27 ~~slaughtering, breaking and/or processing perishable meat products~~
28 ~~and/or selling the same at wholesale only and not at retail; as to such~~
29 ~~persons the tax imposed is equal to the gross proceeds derived from~~
30 ~~such sales multiplied by the rate of 0.138 percent.~~

31 ~~(5) Upon every person engaging within this state in the business of~~
32 ~~acting as a travel agent or tour operator; as to such persons the~~
33 ~~amount of the tax with respect to such activities is equal to the gross~~
34 ~~income derived from such activities multiplied by the rate of 0.275~~
35 ~~percent.~~

36 ~~(6) Upon every person engaging within this state in business as an~~
37 ~~international steamship agent, international customs house broker,~~
38 ~~international freight forwarder, vessel and/or cargo charter broker in~~

1 ~~foreign commerce, and/or international air cargo agent; as to such~~
2 ~~persons the amount of the tax with respect to only international~~
3 ~~activities is equal to the gross income derived from such activities~~
4 ~~multiplied by the rate of 0.275 percent.~~

5 ~~(7))~~) Upon every person engaging within this state in the business
6 of stevedoring and associated activities pertinent to the movement of
7 goods and commodities in waterborne interstate or foreign commerce; as
8 to such persons the amount of tax with respect to such business is
9 equal to the gross proceeds derived from such activities multiplied by
10 the rate of 0.275 percent. Persons subject to taxation under this
11 subsection are exempt from payment of taxes imposed by chapter 82.16
12 RCW for that portion of their business subject to taxation under this
13 subsection. Stevedoring and associated activities pertinent to the
14 conduct of goods and commodities in waterborne interstate or foreign
15 commerce are defined as all activities of a labor, service or
16 transportation nature whereby cargo may be loaded or unloaded to or
17 from vessels or barges, passing over, onto or under a wharf, pier, or
18 similar structure; cargo may be moved to a warehouse or similar holding
19 or storage yard or area to await further movement in import or export
20 or may move to a consolidation freight station and be stuffed,
21 unstuffed, containerized, separated or otherwise segregated or
22 aggregated for delivery or loaded on any mode of transportation for
23 delivery to its consignee. Specific activities included in this
24 definition are: Wharfage, handling, loading, unloading, moving of
25 cargo to a convenient place of delivery to the consignee or a
26 convenient place for further movement to export mode; documentation
27 services in connection with the receipt, delivery, checking, care,
28 custody and control of cargo required in the transfer of cargo;
29 imported automobile handling prior to delivery to consignee; terminal
30 stevedoring and incidental vessel services, including but not limited
31 to plugging and unplugging refrigerator service to containers,
32 trailers, and other refrigerated cargo receptacles, and securing ship
33 hatch covers.

34 ~~((8))~~) (2)(a) Upon every person engaging within this state in the
35 business of disposing of low-level waste, as defined in RCW 43.145.010;
36 as to such persons the amount of the tax with respect to such business
37 is equal to the gross income of the business, excluding any fees

1 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
2 percent.

3 (b) If the gross income of the taxpayer is attributable to
4 activities both within and without this state, the gross income
5 attributable to this state must be determined in accordance with the
6 methods of apportionment required under RCW 82.04.460.

7 ~~((9) Upon every person engaging within this state as an insurance
8 producer or title insurance agent licensed under chapter 48.17 RCW or
9 a surplus line broker licensed under chapter 48.15 RCW; as to such
10 persons, the amount of the tax with respect to such licensed activities
11 is equal to the gross income of such business multiplied by the rate of
12 0.484 percent.~~

13 ~~(10) Upon every person engaging within this state in business as a
14 hospital, as defined in chapter 70.41 RCW, that is operated as a
15 nonprofit corporation or by the state or any of its political
16 subdivisions, as to such persons, the amount of tax with respect to
17 such activities is equal to the gross income of the business multiplied
18 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
19 thereafter.~~

20 ~~(11))~~ (3)(a) Beginning October 1, 2005, upon every person engaging
21 within this state in the business of manufacturing commercial
22 airplanes, or components of such airplanes, or making sales, at retail
23 or wholesale, of commercial airplanes or components of such airplanes,
24 manufactured by the seller, as to such persons the amount of tax with
25 respect to such business is, in the case of manufacturers, equal to the
26 value of the product manufactured and the gross proceeds of sales of
27 the product manufactured, or in the case of processors for hire, equal
28 to the gross income of the business, multiplied by the rate of:

29 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and
30 (ii) 0.2904 percent beginning July 1, 2007.

31 (b) Beginning July 1, 2008, upon every person who is not eligible
32 to report under the provisions of (a) of this subsection ~~((11))~~ (3)
33 and is engaging within this state in the business of manufacturing
34 tooling specifically designed for use in manufacturing commercial
35 airplanes or components of such airplanes, or making sales, at retail
36 or wholesale, of such tooling manufactured by the seller, as to such
37 persons the amount of tax with respect to such business is, in the case
38 of manufacturers, equal to the value of the product manufactured and

1 the gross proceeds of sales of the product manufactured, or in the case
2 of processors for hire, be equal to the gross income of the business,
3 multiplied by the rate of 0.2904 percent.

4 (c) For the purposes of this subsection (~~((11))~~) (3), "commercial
5 airplane" and "component" have the same meanings as provided in RCW
6 82.32.550.

7 (d) In addition to all other requirements under this title, a
8 person reporting under the tax rate provided in this subsection
9 (~~((11))~~) (3) must file a complete annual report with the department
10 under RCW 82.32.534.

11 (e) This subsection (~~((11))~~) (3) does not apply on and after July
12 1, 2024.

13 (~~((12))~~) (4)(a) Until July 1, 2024, upon every person engaging
14 within this state in the business of extracting timber or extracting
15 timber for hire (~~((timber))~~); as to such persons the amount of tax with
16 respect to the business is, in the case of extractors, equal to the
17 value of products, including by-products, extracted, or in the case of
18 extractors for hire, equal to the gross income of the business,
19 multiplied by the rate of 0.4235 percent from July 1, 2006, through
20 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
21 2024.

22 (b) Until July 1, 2024, upon every person engaging within this
23 state in the business of manufacturing or processing for hire: (i)
24 Timber into timber products or wood products; or (ii) timber products
25 into other timber products or wood products; as to such persons the
26 amount of the tax with respect to the business is, in the case of
27 manufacturers, equal to the value of products, including by-products,
28 manufactured, or in the case of processors for hire, equal to the gross
29 income of the business, multiplied by the rate of 0.4235 percent from
30 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
31 2007, through June 30, 2024.

32 (c) Until July 1, 2024, upon every person engaging within this
33 state in the business of selling at wholesale: (i) Timber extracted by
34 that person; (ii) timber products manufactured by that person from
35 timber or other timber products; or (iii) wood products manufactured by
36 that person from timber or timber products; as to such persons the
37 amount of the tax with respect to the business is equal to the gross
38 proceeds of sales of the timber, timber products, or wood products

1 multiplied by the rate of 0.4235 percent from July 1, 2006, through
2 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
3 2024.

4 (d) Until July 1, 2024, upon every person engaging within this
5 state in the business of selling standing timber; as to such persons
6 the amount of the tax with respect to the business is equal to the
7 gross income of the business multiplied by the rate of 0.2904 percent.
8 For purposes of this subsection (~~((+12+))~~) (4)(d), "selling standing
9 timber" means the sale of timber apart from the land, where the buyer
10 is required to sever the timber within thirty months from the date of
11 the original contract, regardless of the method of payment for the
12 timber and whether title to the timber transfers before, upon, or after
13 severance.

14 (e) For purposes of this subsection, the following definitions
15 apply:

16 (i) "Biocomposite surface products" means surface material products
17 containing, by weight or volume, more than fifty percent recycled paper
18 and that also use nonpetroleum-based phenolic resin as a bonding agent.

19 (ii) "Paper and paper products" means products made of interwoven
20 cellulosic fibers held together largely by hydrogen bonding. "Paper
21 and paper products" includes newsprint; office, printing, fine, and
22 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
23 kraft bag, construction, and other kraft industrial papers; paperboard,
24 liquid packaging containers, containerboard, corrugated, and solid-
25 fiber containers including linerboard and corrugated medium; and
26 related types of cellulosic products containing primarily, by weight or
27 volume, cellulosic materials. "Paper and paper products" does not
28 include books, newspapers, magazines, periodicals, and other printed
29 publications, advertising materials, calendars, and similar types of
30 printed materials.

31 (iii) "Recycled paper" means paper and paper products having fifty
32 percent or more of their fiber content that comes from postconsumer
33 waste. For purposes of this subsection (~~((+12+))~~) (4)(e)(iii),
34 "postconsumer waste" means a finished material that would normally be
35 disposed of as solid waste, having completed its life cycle as a
36 consumer item.

37 (iv) "Timber" means forest trees, standing or down, on privately or

1 publicly owned land. "Timber" does not include Christmas trees that
2 are cultivated by agricultural methods or short-rotation hardwoods as
3 defined in RCW 84.33.035.

4 (v) "Timber products" means:

5 (A) Logs, wood chips, sawdust, wood waste, and similar products
6 obtained wholly from the processing of timber, short-rotation hardwoods
7 as defined in RCW 84.33.035, or both;

8 (B) Pulp, including market pulp and pulp derived from recovered
9 paper or paper products; and

10 (C) Recycled paper, but only when used in the manufacture of
11 biocomposite surface products.

12 (vi) "Wood products" means paper and paper products; dimensional
13 lumber; engineered wood products such as particleboard, oriented strand
14 board, medium density fiberboard, and plywood; wood doors; wood
15 windows; and biocomposite surface products.

16 (f) Except for small harvesters as defined in RCW 84.33.035, a
17 person reporting under the tax rate provided in this subsection
18 (~~((12))~~) (4) must file a complete annual survey with the department
19 under RCW 82.32.585.

20 (~~((13) Upon every person engaging within this state in inspecting,
21 testing, labeling, and storing canned salmon owned by another person,
22 as to such persons, the amount of tax with respect to such activities
23 is equal to the gross income derived from such activities multiplied by
24 the rate of 0.484 percent.~~

25 ~~((14))~~) (5)(a) Upon every person engaging within this state in the
26 business of printing a newspaper, publishing a newspaper, or both, the
27 amount of tax on such business is equal to the gross income of the
28 business multiplied by the rate of 0.365 percent through June 30, 2013,
29 and beginning July 1, 2013, multiplied by the rate of 0.35 percent.

30 (b) A person reporting under the tax rate provided in this
31 subsection (~~((14))~~) (5) must file a complete annual report with the
32 department under RCW 82.32.534.

33 **Sec. 208.** RCW 82.04.260 and 2012 2nd sp.s. c 6 s 204 are each
34 amended to read as follows:

35 (1) (~~Upon every person engaging within this state in the business
36 of manufacturing:~~

1 ~~(a) Wheat into flour, barley into pearl barley, soybeans into~~
2 ~~soybean oil, canola into canola oil, canola meal, or canola by-~~
3 ~~products, or sunflower seeds into sunflower oil; as to such persons the~~
4 ~~amount of tax with respect to such business is equal to the value of~~
5 ~~the flour, pearl barley, oil, canola meal, or canola by-product~~
6 ~~manufactured, multiplied by the rate of 0.138 percent;~~

7 ~~(b) Beginning July 1, 2015, seafood products that remain in a raw,~~
8 ~~raw frozen, or raw salted state at the completion of the manufacturing~~
9 ~~by that person; or selling manufactured seafood products that remain in~~
10 ~~a raw, raw frozen, or raw salted state at the completion of the~~
11 ~~manufacturing, to purchasers who transport in the ordinary course of~~
12 ~~business the goods out of this state; as to such persons the amount of~~
13 ~~tax with respect to such business is equal to the value of the products~~
14 ~~manufactured or the gross proceeds derived from such sales, multiplied~~
15 ~~by the rate of 0.138 percent. Sellers must keep and preserve records~~
16 ~~for the period required by RCW 82.32.070 establishing that the goods~~
17 ~~were transported by the purchaser in the ordinary course of business~~
18 ~~out of this state;~~

19 ~~(c) Beginning July 1, 2015, dairy products that as of September 20,~~
20 ~~2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135,~~
21 ~~including by products from the manufacturing of the dairy products such~~
22 ~~as whey and casein; or selling the same to purchasers who transport in~~
23 ~~the ordinary course of business the goods out of state; as to such~~
24 ~~persons the tax imposed is equal to the value of the products~~
25 ~~manufactured or the gross proceeds derived from such sales multiplied~~
26 ~~by the rate of 0.138 percent. Sellers must keep and preserve records~~
27 ~~for the period required by RCW 82.32.070 establishing that the goods~~
28 ~~were transported by the purchaser in the ordinary course of business~~
29 ~~out of this state;~~

30 ~~(d) Beginning July 1, 2015, fruits or vegetables by canning,~~
31 ~~preserving, freezing, processing, or dehydrating fresh fruits or~~
32 ~~vegetables, or selling at wholesale fruits or vegetables manufactured~~
33 ~~by the seller by canning, preserving, freezing, processing, or~~
34 ~~dehydrating fresh fruits or vegetables and sold to purchasers who~~
35 ~~transport in the ordinary course of business the goods out of this~~
36 ~~state; as to such persons the amount of tax with respect to such~~
37 ~~business is equal to the value of the products manufactured or the~~
38 ~~gross proceeds derived from such sales multiplied by the rate of 0.138~~

1 percent.—Sellers must keep and preserve records for the period
2 required by RCW 82.32.070 establishing that the goods were transported
3 by the purchaser in the ordinary course of business out of this state;

4 (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel
5 feedstock, as those terms are defined in RCW 82.29A.135; as to such
6 persons the amount of tax with respect to the business is equal to the
7 value of alcohol fuel, biodiesel fuel, or biodiesel feedstock
8 manufactured, multiplied by the rate of 0.138 percent; and

9 (f) Wood biomass fuel as defined in RCW 82.29A.135; as to such
10 persons the amount of tax with respect to the business is equal to the
11 value of wood biomass fuel manufactured, multiplied by the rate of
12 0.138 percent.

13 (2) Upon every person engaging within this state in the business of
14 splitting or processing dried peas; as to such persons the amount of
15 tax with respect to such business is equal to the value of the peas
16 split or processed, multiplied by the rate of 0.138 percent.

17 (3) Upon every nonprofit corporation and nonprofit association
18 engaging within this state in research and development, as to such
19 corporations and associations, the amount of tax with respect to such
20 activities is equal to the gross income derived from such activities
21 multiplied by the rate of 0.484 percent.

22 (4) Upon every person engaging within this state in the business of
23 slaughtering, breaking and/or processing perishable meat products
24 and/or selling the same at wholesale only and not at retail; as to such
25 persons the tax imposed is equal to the gross proceeds derived from
26 such sales multiplied by the rate of 0.138 percent.

27 (5) Upon every person engaging within this state in the business of
28 acting as a travel agent or tour operator; as to such persons the
29 amount of the tax with respect to such activities is equal to the gross
30 income derived from such activities multiplied by the rate of 0.275
31 percent.

32 (6) Upon every person engaging within this state in business as an
33 international steamship agent, international customs house broker,
34 international freight forwarder, vessel and/or cargo charter broker in
35 foreign commerce, and/or international air cargo agent; as to such
36 persons the amount of the tax with respect to only international
37 activities is equal to the gross income derived from such activities
38 multiplied by the rate of 0.275 percent.

1 ~~(7)~~) Upon every person engaging within this state in the business
2 of stevedoring and associated activities pertinent to the movement of
3 goods and commodities in waterborne interstate or foreign commerce; as
4 to such persons the amount of tax with respect to such business is
5 equal to the gross proceeds derived from such activities multiplied by
6 the rate of 0.275 percent. Persons subject to taxation under this
7 subsection are exempt from payment of taxes imposed by chapter 82.16
8 RCW for that portion of their business subject to taxation under this
9 subsection. Stevedoring and associated activities pertinent to the
10 conduct of goods and commodities in waterborne interstate or foreign
11 commerce are defined as all activities of a labor, service or
12 transportation nature whereby cargo may be loaded or unloaded to or
13 from vessels or barges, passing over, onto or under a wharf, pier, or
14 similar structure; cargo may be moved to a warehouse or similar holding
15 or storage yard or area to await further movement in import or export
16 or may move to a consolidation freight station and be stuffed,
17 unstuffed, containerized, separated or otherwise segregated or
18 aggregated for delivery or loaded on any mode of transportation for
19 delivery to its consignee. Specific activities included in this
20 definition are: Wharfage, handling, loading, unloading, moving of
21 cargo to a convenient place of delivery to the consignee or a
22 convenient place for further movement to export mode; documentation
23 services in connection with the receipt, delivery, checking, care,
24 custody and control of cargo required in the transfer of cargo;
25 imported automobile handling prior to delivery to consignee; terminal
26 stevedoring and incidental vessel services, including but not limited
27 to plugging and unplugging refrigerator service to containers,
28 trailers, and other refrigerated cargo receptacles, and securing ship
29 hatch covers.

30 ~~((8))~~ (2)(a) Upon every person engaging within this state in the
31 business of disposing of low-level waste, as defined in RCW 43.145.010;
32 as to such persons the amount of the tax with respect to such business
33 is equal to the gross income of the business, excluding any fees
34 imposed under chapter 43.200 RCW, multiplied by the rate of 3.3
35 percent.

36 (b) If the gross income of the taxpayer is attributable to
37 activities both within and without this state, the gross income

1 attributable to this state must be determined in accordance with the
2 methods of apportionment required under RCW 82.04.460.

3 ~~((9) Upon every person engaging within this state as an insurance
4 producer or title insurance agent licensed under chapter 48.17 RCW or
5 a surplus line broker licensed under chapter 48.15 RCW; as to such
6 persons, the amount of the tax with respect to such licensed activities
7 is equal to the gross income of such business multiplied by the rate of
8 0.484 percent.~~

9 ~~(10) Upon every person engaging within this state in business as a
10 hospital, as defined in chapter 70.41 RCW, that is operated as a
11 nonprofit corporation or by the state or any of its political
12 subdivisions, as to such persons, the amount of tax with respect to
13 such activities is equal to the gross income of the business multiplied
14 by the rate of 0.75 percent through June 30, 1995, and 1.5 percent
15 thereafter.~~

16 ~~((11))~~ (3)(a) Beginning October 1, 2005, upon every person engaging
17 within this state in the business of manufacturing commercial
18 airplanes, or components of such airplanes, or making sales, at retail
19 or wholesale, of commercial airplanes or components of such airplanes,
20 manufactured by the seller, as to such persons the amount of tax with
21 respect to such business is, in the case of manufacturers, equal to the
22 value of the product manufactured and the gross proceeds of sales of
23 the product manufactured, or in the case of processors for hire, equal
24 to the gross income of the business, multiplied by the rate of:

25 (i) 0.4235 percent from October 1, 2005, through June 30, 2007; and

26 (ii) 0.2904 percent beginning July 1, 2007.

27 (b) Beginning July 1, 2008, upon every person who is not eligible
28 to report under the provisions of (a) of this subsection ~~((11))~~ (3)
29 and is engaging within this state in the business of manufacturing
30 tooling specifically designed for use in manufacturing commercial
31 airplanes or components of such airplanes, or making sales, at retail
32 or wholesale, of such tooling manufactured by the seller, as to such
33 persons the amount of tax with respect to such business is, in the case
34 of manufacturers, equal to the value of the product manufactured and
35 the gross proceeds of sales of the product manufactured, or in the case
36 of processors for hire, be equal to the gross income of the business,
37 multiplied by the rate of 0.2904 percent.

1 (c) For the purposes of this subsection (~~((11))~~) (3), "commercial
2 airplane" and "component" have the same meanings as provided in RCW
3 82.32.550.

4 (d) In addition to all other requirements under this title, a
5 person reporting under the tax rate provided in this subsection
6 (~~((11))~~) (3) must file a complete annual report with the department
7 under RCW 82.32.534.

8 (e) This subsection (~~((11))~~) (3) does not apply on and after July
9 1, 2024.

10 (~~((12))~~) (4)(a) Until July 1, 2024, upon every person engaging
11 within this state in the business of extracting timber or extracting
12 timber for hire (~~(timber)~~); as to such persons the amount of tax with
13 respect to the business is, in the case of extractors, equal to the
14 value of products, including by-products, extracted, or in the case of
15 extractors for hire, equal to the gross income of the business,
16 multiplied by the rate of 0.4235 percent from July 1, 2006, through
17 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
18 2024.

19 (b) Until July 1, 2024, upon every person engaging within this
20 state in the business of manufacturing or processing for hire: (i)
21 Timber into timber products or wood products; or (ii) timber products
22 into other timber products or wood products; as to such persons the
23 amount of the tax with respect to the business is, in the case of
24 manufacturers, equal to the value of products, including by-products,
25 manufactured, or in the case of processors for hire, equal to the gross
26 income of the business, multiplied by the rate of 0.4235 percent from
27 July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1,
28 2007, through June 30, 2024.

29 (c) Until July 1, 2024, upon every person engaging within this
30 state in the business of selling at wholesale: (i) Timber extracted by
31 that person; (ii) timber products manufactured by that person from
32 timber or other timber products; or (iii) wood products manufactured by
33 that person from timber or timber products; as to such persons the
34 amount of the tax with respect to the business is equal to the gross
35 proceeds of sales of the timber, timber products, or wood products
36 multiplied by the rate of 0.4235 percent from July 1, 2006, through
37 June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30,
38 2024.

1 (d) Until July 1, 2024, upon every person engaging within this
2 state in the business of selling standing timber; as to such persons
3 the amount of the tax with respect to the business is equal to the
4 gross income of the business multiplied by the rate of 0.2904 percent.
5 For purposes of this subsection (~~((+12+))~~) (4)(d), "selling standing
6 timber" means the sale of timber apart from the land, where the buyer
7 is required to sever the timber within thirty months from the date of
8 the original contract, regardless of the method of payment for the
9 timber and whether title to the timber transfers before, upon, or after
10 severance.

11 (e) For purposes of this subsection, the following definitions
12 apply:

13 (i) "Biocomposite surface products" means surface material products
14 containing, by weight or volume, more than fifty percent recycled paper
15 and that also use nonpetroleum-based phenolic resin as a bonding agent.

16 (ii) "Paper and paper products" means products made of interwoven
17 cellulosic fibers held together largely by hydrogen bonding. "Paper
18 and paper products" includes newsprint; office, printing, fine, and
19 pressure-sensitive papers; paper napkins, towels, and toilet tissue;
20 kraft bag, construction, and other kraft industrial papers; paperboard,
21 liquid packaging containers, containerboard, corrugated, and solid-
22 fiber containers including linerboard and corrugated medium; and
23 related types of cellulosic products containing primarily, by weight or
24 volume, cellulosic materials. "Paper and paper products" does not
25 include books, newspapers, magazines, periodicals, and other printed
26 publications, advertising materials, calendars, and similar types of
27 printed materials.

28 (iii) "Recycled paper" means paper and paper products having fifty
29 percent or more of their fiber content that comes from postconsumer
30 waste. For purposes of this subsection (~~((+12+))~~) (4)(e)(iii),
31 "postconsumer waste" means a finished material that would normally be
32 disposed of as solid waste, having completed its life cycle as a
33 consumer item.

34 (iv) "Timber" means forest trees, standing or down, on privately or
35 publicly owned land. "Timber" does not include Christmas trees that
36 are cultivated by agricultural methods or short-rotation hardwoods as
37 defined in RCW 84.33.035.

38 (v) "Timber products" means:

1 (A) Logs, wood chips, sawdust, wood waste, and similar products
2 obtained wholly from the processing of timber, short-rotation hardwoods
3 as defined in RCW 84.33.035, or both;

4 (B) Pulp, including market pulp and pulp derived from recovered
5 paper or paper products; and

6 (C) Recycled paper, but only when used in the manufacture of
7 biocomposite surface products.

8 (vi) "Wood products" means paper and paper products; dimensional
9 lumber; engineered wood products such as particleboard, oriented strand
10 board, medium density fiberboard, and plywood; wood doors; wood
11 windows; and biocomposite surface products.

12 (f) Except for small harvesters as defined in RCW 84.33.035, a
13 person reporting under the tax rate provided in this subsection
14 ~~((+12))~~ (4) must file a complete annual survey with the department
15 under RCW 82.32.585.

16 ~~((+13) Upon every person engaging within this state in inspecting,
17 testing, labeling, and storing canned salmon owned by another person,
18 as to such persons, the amount of tax with respect to such activities
19 is equal to the gross income derived from such activities multiplied by
20 the rate of 0.484 percent.~~

21 ~~(+14))~~ (5)(a) Upon every person engaging within this state in the
22 business of printing a newspaper, publishing a newspaper, or both, the
23 amount of tax on such business is equal to the gross income of the
24 business multiplied by the rate of 0.2904 percent.

25 (b) A person reporting under the tax rate provided in this
26 subsection ~~((+14))~~ (5) must file a complete annual report with the
27 department under RCW 82.32.534.

28 **Sec. 209.** RCW 82.04.280 and 2010 c 106 s 205 are each amended to
29 read as follows:

30 (1) Upon every person engaging within this state in the business
31 of: (a) Printing materials other than newspapers, and of publishing
32 periodicals or magazines; or (b) ~~((building, repairing or improving any
33 street, place, road, highway, easement, right-of-way, mass public
34 transportation terminal or parking facility, bridge, tunnel, or trestle
35 which is owned by a municipal corporation or political subdivision of
36 the state or by the United States and which is used or to be used,
37 primarily for foot or vehicular traffic including mass transportation~~

1 ~~vehicles of any kind and including any readjustment, reconstruction or~~
2 ~~relocation of the facilities of any public, private or cooperatively~~
3 ~~owned utility or railroad in the course of such building, repairing or~~
4 ~~improving, the cost of which readjustment, reconstruction, or~~
5 ~~relocation, is the responsibility of the public authority whose street,~~
6 ~~place, road, highway, easement, right of way, mass public~~
7 ~~transportation terminal or parking facility, bridge, tunnel, or trestle~~
8 ~~is being built, repaired or improved; (c) extracting for hire or~~
9 ~~processing for hire, except persons taxable as extractors for hire or~~
10 ~~processors for hire under another section of this chapter; (d)~~
11 ~~operating a cold storage warehouse or storage warehouse, but not~~
12 ~~including the rental of cold storage lockers; (e) representing and~~
13 ~~performing services for fire or casualty insurance companies as an~~
14 ~~independent resident managing general agent licensed under the~~
15 ~~provisions of chapter 48.17 RCW; (f)) radio and television~~
16 ~~broadcasting, excluding network, national and regional advertising~~
17 ~~computed as a standard deduction based on the national average thereof~~
18 ~~as annually reported by the federal communications commission, or in~~
19 ~~lieu thereof by itemization by the individual broadcasting station, and~~
20 ~~excluding that portion of revenue represented by the out-of-state~~
21 ~~audience computed as a ratio to the station's total audience as~~
22 ~~measured by the 100 micro-volt signal strength and delivery by wire, if~~
23 ~~any; ((g) engaging in activities which bring a person within the~~
24 ~~definition of consumer contained in RCW 82.04.190(6);)) as to such~~
25 ~~persons, the amount of tax on such business is equal to the gross~~
26 ~~income of the business multiplied by the rate of 0.484 percent.~~

27 (2) For the purposes of this section, ~~((the following definitions~~
28 ~~apply unless the context clearly requires otherwise.~~

29 (a) ~~"Cold storage warehouse" means a storage warehouse used to~~
30 ~~store fresh and/or frozen perishable fruits or vegetables, meat,~~
31 ~~seafood, dairy products, or fowl, or any combination thereof, at a~~
32 ~~desired temperature to maintain the quality of the product for orderly~~
33 ~~marketing.~~

34 (b) ~~"Storage warehouse" means a building or structure, or any part~~
35 ~~thereof, in which goods, wares, or merchandise are received for storage~~
36 ~~for compensation, except field warehouses, fruit warehouses, fruit~~
37 ~~packing plants, warehouses licensed under chapter 22.09 RCW, public~~
38 ~~garages storing automobiles, railroad freight sheds, docks and wharves,~~

1 and "self-storage" or "mini-storage" facilities whereby customers have
2 direct access to individual storage areas by separate entrance.
3 "Storage warehouse" does not include a building or structure, or that
4 part of such building or structure, in which an activity taxable under
5 RCW 82.04.272 is conducted.

6 (e)) "periodical or magazine" means a printed publication, other
7 than a newspaper, issued regularly at stated intervals at least once
8 every three months, including any supplement or special edition of the
9 publication.

10 **Sec. 210.** RCW 82.04.285 and 2005 c 369 s 5 are each amended to
11 read as follows:

12 (1) Upon every person engaging within this state in the business of
13 operating contests of chance; as to such persons, the amount of tax
14 with respect to the business of operating contests of chance is equal
15 to the gross income of the business derived from contests of chance
16 multiplied by the rate of 1.5 percent.

17 (2) An additional tax is imposed on those persons subject to tax in
18 subsection (1) of this section. The amount of the additional tax with
19 respect to the business of operating contests of chance is equal to the
20 gross income of the business derived from contests of chance multiplied
21 by the rate of 0.1 percent through June 30, 2006, and 0.13 percent
22 thereafter. The money collected under this subsection (2) (~~shall~~)
23 must be deposited in the problem gambling account created in RCW
24 43.20A.892. (~~This subsection does not apply to businesses operating~~
25 ~~contests of chance when the gross income from the operation of contests~~
26 ~~of chance is less than fifty thousand dollars per year.))~~

27 (3) For the purpose of this section, "contests of chance" means any
28 contests, games, gaming schemes, or gaming devices, other than the
29 state lottery as defined in RCW 67.70.010, in which the outcome depends
30 in a material degree upon an element of chance, notwithstanding that
31 skill of the contestants may also be a factor in the outcome. The term
32 includes social card games, bingo, raffle, and punchboard games, and
33 pull-tabs as defined in chapter 9.46 RCW. The term does not include
34 race meets for the conduct of which a license must be secured from the
35 Washington horse racing commission, or "amusement game" as defined in
36 RCW 9.46.0201.

1 (4) "Gross income of the business" does not include the monetary
2 value or actual cost of any prizes that are awarded, amounts paid to
3 players for winning wagers, accrual of prizes for progressive jackpot
4 contests, or repayment of amounts used to seed guaranteed progressive
5 jackpot prizes.

6 **Sec. 211.** RCW 82.04.290 and 2011 c 174 s 101 are each amended to
7 read as follows:

8 ~~(1) ((Upon every person engaging within this state in the business
9 of providing international investment management services, as to such
10 persons, the amount of tax with respect to such business shall be equal
11 to the gross income or gross proceeds of sales of the business
12 multiplied by a rate of 0.275 percent.~~

13 ~~(2)(a))~~ Upon every person engaging within this state in any
14 business activity other than or in addition to an activity taxed
15 explicitly under another section in this chapter ~~((or subsection (1) or
16 (3) of this section))~~; as to such persons the amount of tax on account
17 of such activities ~~((shall be))~~ is equal to the gross income of the
18 business multiplied by the rate of 1.5 percent.

19 ~~((b))~~ (2) This ~~((subsection (2) includes))~~ section applies to,
20 among others, and without limiting the scope hereof (whether or not
21 title to materials used in the performance of such business passes to
22 another by accession, confusion or other than by outright sale),
23 persons engaged in the business of rendering any type of service which
24 does not constitute a "sale at retail" or a "sale at wholesale." This
25 includes, but is not limited to, the business of inspecting, testing,
26 labeling, and storing canned salmon owned by another person; conducting
27 research and development for compensation; providing chemical
28 dependency treatment services; providing travel agent or tour operator
29 services; acting as an international steamship agent, international
30 customs house broker, international freight forwarder, vessel or cargo
31 charter broker in foreign commerce, or international air cargo agent;
32 performing aerospace product development for others; operating a
33 warehouse; providing international investment management services;
34 providing boarding home services; receiving income from royalties;
35 providing day care services; and performing insurance services.

36 (3) The value of advertising, demonstration, and promotional
37 supplies and materials furnished to an agent by his or her principal or

1 supplier to be used for informational, educational, and promotional
2 purposes (~~shall~~) is not (~~be~~) considered a part of the agent's
3 remuneration or commission and (~~shall~~) is not (~~be~~) subject to
4 taxation under this section.

5 (~~(3)~~) (4)(a) Until July 1, 2024, upon every person engaging
6 within this state in the business of performing aerospace product
7 development for others, as to such persons, the amount of tax with
8 respect to such business shall be equal to the gross income of the
9 business multiplied by a rate of 0.9 percent.

10 (b) "Aerospace product development" has the meaning as provided in
11 RCW 82.04.4461.

12 (5) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

14 (a) "Boarding home services" means any services that a licensed
15 boarding home is authorized to provide to residents of the boarding
16 home, either directly or indirectly, and housing provided to residents
17 of the boarding home.

18 (b) "Licensed boarding home" means a boarding home licensed under
19 chapter 18.20 RCW.

20 (c) "Insurance services" means:

21 (i) Representing and performing services for fire or casualty
22 insurance companies as an independent resident managing general agent
23 licensed under the provisions of chapter 48.17 RCW; or

24 (ii) The licensed activities of insurance producers or title
25 insurance agents licensed under chapter 48.17 RCW or surplus line
26 brokers licensed under chapter 48.15 RCW.

27 NEW SECTION. Sec. 212. The following acts or parts of acts are
28 each repealed:

29 (1) RCW 82.04.272 (Tax on warehousing and reselling prescription
30 drugs) and 2003 c 168 s 401 & 1998 c 343 s 1;

31 (2) RCW 82.04.2905 (Tax on providing day care) and 1998 c 312 s 7;

32 (3) RCW 82.04.2906 (Tax on certain chemical dependency services)
33 and 2003 c 343 s 1;

34 (4) RCW 82.04.2907 (Tax on royalties) and 2010 1st sp.s. c 23 s
35 107, 2010 c 111 s 302, 2009 c 535 s 407, 2001 c 320 s 3, & 1998 c 331
36 s 1;

1 (5) RCW 82.04.2908 (Tax on provision of room and domiciliary care
2 to assisted living facility residents) and 2012 c 10 s 70, 2005 c 514
3 s 302, & 2004 c 174 s 1;

4 (6) RCW 82.04.2909 (Tax on aluminum smelters) and 2011 c 174 s 301;

5 (7) RCW 82.04.294 (Tax on manufacturers or wholesalers of solar
6 energy systems) and 2011 c 179 s 1, 2010 c 114 s 109, 2009 c 469 s 501,
7 2007 c 54 s 8, & 2005 c 301 s 2;

8 (8) RCW 35.102.120 (Definitions--Tax classifications) and 2003 c 79
9 s 12;

10 (9) 2010 c 114 s 104;

11 (10) 2003 c 149 s 3;

12 (11) 2010 c 106 s 206;

13 (12) 2009 c 461 s 3;

14 (13) 2006 c 300 s 7; and

15 (14) 2003 c 149 s 4.

16 **Sec. 213.** RCW 35.102.150 and 2011 c 174 s 201 are each amended to
17 read as follows:

18 Notwithstanding RCW 35.102.130, a city that imposes a business and
19 occupation tax must allocate a person's gross income from the
20 activities of printing, and of publishing newspapers, periodicals, or
21 magazines, to the principal place in this state from which the
22 taxpayer's business is directed or managed. As used in this section,
23 the activities of printing, and of publishing newspapers, periodicals,
24 or magazines are those activities to which the tax rates in RCW
25 82.04.260(~~(+13)~~) (5) and 82.04.280(1)(a) apply.

26 **Sec. 214.** RCW 48.14.080 and 2010 1st sp.s. c 23 s 520 are each
27 amended to read as follows:

28 (1) As to insurers, other than title insurers and taxpayers under
29 RCW 48.14.0201, the taxes imposed by this title are in lieu of all
30 other taxes, except as otherwise provided in this section.

31 (2) Subsection (1) of this section does not apply with respect to:

32 (a) Taxes on real and tangible personal property;

33 (b) Excise taxes on the sale, purchase, use, or possession of (i)
34 real property; (ii) tangible personal property; (iii) extended
35 warranties; (iv) services, including digital automated services as

1 defined in RCW 82.04.192; and (v) digital goods and digital codes as
2 those terms are defined in RCW 82.04.192; and

3 (c) The tax imposed in ((~~RCW 82.04.260(9)~~, ~~regarding~~)) chapter
4 82.04 RCW on public and nonprofit hospitals.

5 (3) For the purposes of this section, the term "taxes" includes
6 taxes imposed by the state or any county, city, town, municipal
7 corporation, quasi-municipal corporation, or other political
8 subdivision.

9 **Sec. 215.** RCW 82.04.051 and 1999 c 212 s 2 are each amended to
10 read as follows:

11 (1) As used in RCW 82.04.050, the term "services rendered in
12 respect to" means those services that are directly related to the
13 constructing, building, repairing, improving, and decorating of
14 buildings or other structures and that are performed by a person who is
15 responsible for the performance of the constructing, building,
16 repairing, improving, or decorating activity. The term does not
17 include services such as engineering, architectural, surveying,
18 flagging, accounting, legal, consulting, or administrative services
19 provided to the consumer of, or person responsible for performing, the
20 constructing, building, repairing, improving, or decorating services.

21 (2) A contract or agreement under which a person is responsible for
22 both services that would otherwise be subject to tax as a service under
23 RCW 82.04.290((+2)) and also constructing, building, repairing,
24 improving, or decorating activities that would otherwise be subject to
25 tax under another section of this chapter is subject to the tax that
26 applies to the predominant activity under the contract or agreement.

27 (3) Unless otherwise provided by law, a contract or agreement under
28 which a person is responsible for activities that are subject to tax as
29 a service under RCW 82.04.290((+2)), and a subsequent contract or
30 agreement under which the same person is responsible for constructing,
31 building, repairing, improving, or decorating activities subject to tax
32 under another section of this chapter, ((~~shall~~)) may not be combined
33 and taxed as a single activity if at the time of the first contract or
34 agreement it was not contemplated by the parties, as evidenced by the
35 facts, that the same person would be awarded both contracts.

36 (4) As used in this section "responsible for the performance" means
37 that the person is obligated to perform the activities, either

1 personally or through a third party. A person who reviews work for a
2 consumer, retailer, or wholesaler but does not supervise or direct the
3 work is not responsible for the performance of the work. A person who
4 is financially obligated for the work, such as a bank, but who does not
5 have control over the work itself is not responsible for the
6 performance of the work.

7 **Sec. 216.** RCW 82.04.257 and 2010 c 111 s 301 are each amended to
8 read as follows:

9 (1) Except as provided in subsection (2) of this section, upon
10 every person engaging within this state in the business of making sales
11 at retail or wholesale of digital goods, digital codes, digital
12 automated services, or services described in RCW 82.04.050 (2)(g) or
13 (6)(b), as to such persons, the amount of tax with respect to such
14 business is equal to the gross proceeds of sales of the business,
15 multiplied by the rate of 0.471 percent in the case of retail sales and
16 by the rate of 0.484 percent in the case of wholesale sales.

17 (2) Persons providing subscription television services or
18 subscription radio services are subject to tax under RCW
19 82.04.290(~~(+2)~~) on the gross income of the business received from
20 providing such services.

21 (3) For purposes of this section, a person is considered to be
22 engaging within this state in the business of making sales of digital
23 goods, digital codes, digital automated services, or services described
24 in RCW 82.04.050 (2)(g) or (6)(b), if the person makes sales of digital
25 goods, digital codes, digital automated services, or services described
26 in RCW 82.04.050 (2)(g) or (6)(b) and the sales are sourced to this
27 state under RCW 82.32.730 for sales tax purposes or would have been
28 sourced to this state under RCW 82.32.730 if the sale had been taxable
29 under chapter 82.08 RCW.

30 (4) A person subject to tax under this section is subject to the
31 mandatory electronic filing and payment requirements in RCW 82.32.080.

32 **Sec. 217.** RCW 82.04.261 and 2010 1st sp.s. c 23 s 510 are each
33 amended to read as follows:

34 (1) In addition to the taxes imposed under RCW 82.04.260(~~(+11)~~)
35 (4), a surcharge is imposed on those persons who are subject to any of
36 the taxes imposed under RCW 82.04.260(~~(+11)~~) (4). Except as otherwise

1 provided in this section, the surcharge is equal to 0.052 percent. The
2 surcharge is added to the rates provided in RCW 82.04.260(~~((+11+))~~) (4)
3 (a), (b), (c), and (d). The surcharge and this section expire July 1,
4 2024.

5 (2) All receipts from the surcharge imposed under this section must
6 be deposited into the forest and fish support account created in RCW
7 76.09.405.

8 (3)(a) The surcharge imposed under this section is suspended if:

9 (i) Receipts from the surcharge total at least eight million
10 dollars during any fiscal biennium; or

11 (ii) The office of financial management certifies to the department
12 that the federal government has appropriated at least two million
13 dollars for participation in forest and fish report-related activities
14 by federally recognized Indian tribes located within the geographical
15 boundaries of the state of Washington for any federal fiscal year.

16 (b)(i) The suspension of the surcharge under (a)(i) of this
17 subsection (3) takes effect on the first day of the calendar month that
18 is at least thirty days after the end of the month during which the
19 department determines that receipts from the surcharge total at least
20 eight million dollars during the fiscal biennium. The surcharge is
21 imposed again at the beginning of the following fiscal biennium.

22 (ii) The suspension of the surcharge under (a)(ii) of this
23 subsection (3) takes effect on the later of the first day of October of
24 any federal fiscal year for which the federal government appropriates
25 at least two million dollars for participation in forest and fish
26 report-related activities by federally recognized Indian tribes located
27 within the geographical boundaries of the state of Washington, or the
28 first day of a calendar month that is at least thirty days following
29 the date that the office of financial management makes a certification
30 to the department under subsection (5) of this section. The surcharge
31 is imposed again on the first day of the following July.

32 (4)(a) If, by October 1st of any federal fiscal year, the office of
33 financial management certifies to the department that the federal
34 government has appropriated funds for participation in forest and fish
35 report-related activities by federally recognized Indian tribes located
36 within the geographical boundaries of the state of Washington but the
37 amount of the appropriation is less than two million dollars, the

1 department must adjust the surcharge in accordance with this
2 subsection.

3 (b) The department must adjust the surcharge by an amount that the
4 department estimates will cause the amount of funds deposited into the
5 forest and fish support account for the state fiscal year that begins
6 July 1st and that includes the beginning of the federal fiscal year for
7 which the federal appropriation is made, to be reduced by twice the
8 amount of the federal appropriation for participation in forest and
9 fish report-related activities by federally recognized Indian tribes
10 located within the geographical boundaries of the state of Washington.

11 (c) Any adjustment in the surcharge takes effect at the beginning
12 of a calendar month that is at least thirty days after the date that
13 the office of financial management makes the certification under
14 subsection (5) of this section.

15 (d) The surcharge is imposed again at the rate provided in
16 subsection (1) of this section on the first day of the following state
17 fiscal year unless the surcharge is suspended under subsection (3) of
18 this section or adjusted for that fiscal year under this subsection.

19 (e) Adjustments of the amount of the surcharge by the department
20 are final and may not be used to challenge the validity of the
21 surcharge imposed under this section.

22 (f) The department must provide timely notice to affected taxpayers
23 of the suspension of the surcharge or an adjustment of the surcharge.

24 (5) The office of financial management must make the certification
25 to the department as to the status of federal appropriations for tribal
26 participation in forest and fish report-related activities.

27 **Sec. 218.** RCW 82.04.270 and 2004 c 24 s 5 are each amended to read
28 as follows:

29 Upon every person engaging within this state in the business of
30 making sales at wholesale, except persons taxable (~~as wholesalers~~)
31 under other provisions of this chapter on the business of making sales
32 at wholesale; as to such persons the amount of tax with respect to such
33 business (~~shall be~~) is equal to the gross proceeds of sales of such
34 business multiplied by the rate of 0.484 percent.

35 **Sec. 219.** RCW 82.04.29001 and 2003 c 168 s 602 are each amended to
36 read as follows:

1 (1) The creation and distribution of custom software is a service
2 taxable under RCW 82.04.290(~~(+2)~~). Duplication of the software for
3 the same person, or by the same person for its own use, does not change
4 the character of the software.

5 (2) The customization of prewritten computer software is a service
6 taxable under RCW 82.04.290(~~(+2)~~).

7 **Sec. 220.** RCW 82.04.29002 and 2010 1st sp.s. c 23 s 1101 are each
8 amended to read as follows:

9 (1) Beginning May 1, 2010, through June 30, 2013, an additional
10 rate of tax of 0.30 percent is added to the rate provided for in RCW
11 (~~(82.04.255,)~~) 82.04.285(~~(7)~~) and 82.04.290(~~(+2)(a)~~).

12 (2)(~~(a)~~) The additional rate in subsection (1) of this section
13 does not apply to:

14 (a) Persons engaging within this state in business as a hospital.
15 "Hospital" has the meaning provided in chapter 70.41 RCW but also
16 includes any hospital that comes within the scope of chapter 71.12 RCW
17 if the hospital is also licensed under chapter 70.41 RCW(~~(7)~~);

18 ~~((The additional rate in subsection (1) of this section does
19 not apply to))~~ Amounts received from performing scientific research and
20 development services including but not limited to aerospace product
21 development, as defined in RCW 82.04.4461, performed for others, and
22 research and development in the physical, engineering, and life
23 sciences (such as agriculture, bacteriological, biotechnology,
24 chemical, life sciences, and physical science research and development
25 laboratories or services);

26 (c) Amounts received by nonprofit corporations or nonprofit
27 associations engaging in the business of conducting research and
28 development for compensation;

29 (d) Amounts received from inspecting, testing, labeling, and
30 storing canned salmon owned by another person;

31 (e) Amounts received from providing eligible chemical dependency
32 treatment services;

33 (f) Amounts received from providing qualifying travel or
34 transportation-related activities;

35 (g) Amounts received from operating a qualifying warehouse;

36 (h) Amounts received from providing international investment
37 management services;

1 (i) Amounts received by boarding homes licensed under chapter 18.20
2 RCW for providing boarding home services as defined in RCW 82.04.290;

3 (j) Amounts received from providing child day care;

4 (k) Amounts received from providing insurance services as defined
5 in RCW 82.04.290; and

6 (l) Gross income from royalties.

7 (3) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Eligible chemical dependency treatment services" means
10 intensive inpatient or recovery house residential treatment services
11 for chemical dependency, certified by the department of social and
12 health services, for which payment from the United States or any of its
13 instrumentalities or from the state of Washington or any of its
14 municipal corporations or political subdivisions is received as
15 compensation for or to support those services.

16 (b) "Qualifying travel or transportation-related activities" means
17 engaging within this state in one or more of the following businesses:
18 Travel agent, tour operator, international steamship agent,
19 international customs house broker, international freight forwarder,
20 vessel or cargo charter broker in foreign commerce, or international
21 air cargo agent.

22 (c) "Qualifying warehouse" means a cold storage warehouse or
23 storage warehouse. The term does not include cold storage lockers.

24 (d) "Gross income from royalties" means compensation for the use of
25 intangible property, including charges in the nature of royalties,
26 regardless of where the intangible property will be used. For purposes
27 of this subsection, "intangible property" includes copyrights, patents,
28 licenses, franchises, trademarks, trade names, and similar items.
29 "Gross income from royalties" does not include compensation for any
30 natural resource, the licensing of prewritten computer software to the
31 end user, or the licensing of digital goods, digital codes, or digital
32 automated services to the end user as defined in RCW 82.04.190(11).

33 (e) "Child day care" means providing child care for continuous
34 periods of less than twenty-four hours.

35 **Sec. 221.** RCW 82.04.293 and 1997 c 7 s 3 are each amended to read
36 as follows:

37 For purposes of ((RCW 82.04.290)) this chapter:

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

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

5 (b) At least ten percent of the gross income of such person is
6 derived from providing investment management services to any of the
7 following: (i) Persons or collective investment funds residing outside
8 the United States; or (ii) persons or collective investment funds with
9 at least ten percent of their investments located outside the United
10 States.

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

14 (3) "Collective investment fund" includes:

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

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

21 (c) An "employee benefit plan," which includes any plan, trust,
22 commingled employee benefit trust, or custodial arrangement that is
23 subject to the employee retirement income security act of 1974, as
24 amended, 29 U.S.C. Sec. 1001 et seq., or that is described in sections
25 125, 401, 403, 408, 457, and 501(c)(9) and (17) through (23) of the
26 internal revenue code of 1986, as amended, or a similar plan maintained
27 by a state or local government, or a plan, trust, or custodial
28 arrangement established to self-insure benefits required by federal,
29 state, or local law;

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

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

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

1 (4) Investments are located outside the United States if the
2 underlying assets in which the investment constitutes a beneficial
3 interest reside or are created, issued or held outside the United
4 States.

5 **Sec. 222.** RCW 82.04.297 and 2010 c 111 s 303 are each amended to
6 read as follows:

7 (1) The provision of internet access is subject to tax under RCW
8 82.04.290(~~(+2)~~).

9 (2)(a) Except as provided in (b) of this subsection, "internet" and
10 "internet access" have the same meaning as those terms are defined in
11 the federal internet tax freedom act, Title 47 U.S.C. Sec. 151 note, as
12 existing on July 1, 2009.

13 (b) "Internet access" does not include telecommunications service
14 purchased, used, or sold by a person that provides a service that
15 enables users to connect to the internet to access content,
16 information, or other services offered over the internet, to the extent
17 such telecommunications service is purchased, used, or sold: (i) To
18 provide such service; or (ii) to otherwise enable users to access
19 content, information, or other services offered over the internet.

20 (3) Unless the context clearly requires otherwise, the definitions
21 in this section apply throughout this chapter.

22 **Sec. 223.** RCW 82.04.298 and 2011 c 2 s 204 are each amended to
23 read as follows:

24 (1) The amount of tax with respect to a qualified grocery
25 distribution cooperative's sales of groceries or related goods for
26 resale, excluding (~~items subject to tax under RCW 82.04.260(4)~~)
27 qualifying meat products, to customer-owners of the grocery
28 distribution cooperative is equal to the gross proceeds of sales of the
29 grocery distribution cooperative multiplied by the rate of one and
30 one-half percent.

31 (2) A qualified grocery distribution cooperative is allowed a
32 deduction from the gross proceeds of sales of groceries or related
33 goods for resale, excluding (~~items subject to tax under RCW~~
34 ~~82.04.260(4)~~) qualifying meat products, to customer-owners of the
35 grocery distribution cooperative that is equal to the portion of the

1 gross proceeds of sales for resale that represents the actual cost of
2 the merchandise sold by the grocery distribution cooperative to
3 customer-owners.

4 (3) The definitions in this subsection apply throughout this
5 section unless the context clearly requires otherwise.

6 (a) "Grocery distribution cooperative" means an entity that sells
7 groceries and related items to customer-owners of the grocery
8 distribution cooperative and has customer-owners, in the aggregate, who
9 own a majority of the outstanding ownership interests of the grocery
10 distribution cooperative or of the entity controlling the grocery
11 distribution cooperative. "Grocery distribution cooperative" includes
12 an entity that controls a grocery distribution cooperative.

13 (b) "Qualified grocery distribution cooperative" means:

14 (i) A grocery distribution cooperative that has been determined by
15 a court of record of the state of Washington to be not engaged in
16 wholesaling or making sales at wholesale, within the meaning of RCW
17 82.04.270 or any similar provision of a municipal ordinance that
18 imposes a tax on gross receipts, gross proceeds of sales, or gross
19 income, with respect to purchases made by customer-owners, and
20 subsequently changes its form of doing business to make sales at
21 wholesale of groceries or related items to its customer-owners; or

22 (ii) A grocery distribution cooperative that has acquired
23 substantially all of the assets of a grocery distribution cooperative
24 described in (b)(i) of this subsection.

25 (c) "Customer-owner" means a person who has an ownership interest
26 in a grocery distribution cooperative and purchases groceries and
27 related items at wholesale from that grocery distribution cooperative.

28 (d) "Controlling" means holding fifty percent or more of the voting
29 interests of an entity and having at least equal power to direct or
30 cause the direction of the management and policies of the entity,
31 whether through the ownership of voting securities, by contract, or
32 otherwise.

33 (e) "Qualifying meat product" means: (i) With respect to any
34 person, a perishable meat product; and (ii) any meat product,
35 perishable or not, that is the result of the seller taking an animal or
36 a perishable meat product, processing it, and selling the resulting
37 meat product at wholesale, even if meat is only a component of the
38 finished product.

1 **Sec. 224.** RCW 82.04.334 and 2010 1st sp.s. c 23 s 512 are each
2 amended to read as follows:

3 This chapter does not apply to any sale of standing timber excluded
4 from the definition of "sale" in RCW 82.45.010(3). The definitions in
5 RCW 82.04.260(~~((11))~~) (4) apply to this section.

6 **Sec. 225.** RCW 82.04.360 and 2010 1st sp.s. c 23 s 702 are each
7 amended to read as follows:

8 (1) This chapter does not apply to any person in respect to his or
9 her employment in the capacity of an employee or servant as
10 distinguished from that of an independent contractor. For the purposes
11 of this section, the definition of employee includes those persons that
12 are defined in section 3121(d)(3)(B) of the federal internal revenue
13 code of 1986, as amended through January 1, 1991.

14 (2) Until July 1, 2010, this chapter does not apply to amounts
15 received by an individual from a corporation as compensation for
16 serving as a member of that corporation's board of directors.
17 Beginning on July 1, 2010, such amounts are taxable under RCW
18 82.04.290(~~((2))~~).

19 (3) A booth renter is an independent contractor for purposes of
20 this chapter. For purposes of this section, "booth renter" means any
21 person who:

22 (a) Performs cosmetology, barbering, esthetics, or manicuring
23 services for which a license is required under chapter 18.16 RCW; and

24 (b) Pays a fee for the use of salon or shop facilities and receives
25 no compensation or other consideration from the owner of the salon or
26 shop for the services performed.

27 **Sec. 226.** RCW 82.04.440 and 2011 c 2 s 205 are each amended to
28 read as follows:

29 (1) Every person engaged in activities that are subject to tax
30 under two or more provisions of RCW 82.04.230 through 82.04.298,
31 inclusive, is taxable under each provision applicable to those
32 activities.

33 (2) Persons taxable under RCW (~~((82.04.290(2),~~) 82.04.250,
34 82.04.270, (~~((82.04.294(2),~~) or 82.04.260 (~~((1)(b), (c), or (d), (4),~~
35 ~~(11), or (12))~~) (3) or (4)(c) with respect to selling products in this
36 state, including those persons who are also taxable under RCW

1 82.04.261, are allowed a credit against those taxes for any (a)
2 manufacturing taxes paid with respect to the manufacturing of products
3 so sold in this state, and/or (b) extracting taxes paid with respect to
4 the extracting of products so sold in this state or ingredients of
5 products so sold in this state. Extracting taxes taken as credit under
6 subsection (3) of this section may also be taken under this subsection,
7 if otherwise allowable under this subsection. The amount of the credit
8 may not exceed the tax liability arising under this chapter with
9 respect to the sale of those products.

10 (3) Persons taxable as manufacturers under RCW 82.04.240 or
11 82.04.260 (~~((1)(b) or (12))~~) (4), including those persons who are also
12 taxable under RCW 82.04.261, are allowed a credit against those taxes
13 for any extracting taxes paid with respect to extracting the
14 ingredients of the products so manufactured in this state. The amount
15 of the credit may not exceed the tax liability arising under this
16 chapter with respect to the manufacturing of those products.

17 (4) Persons taxable under RCW 82.04.230, 82.04.240,
18 (~~((82.04.2909(1), 82.04.294(1), 82.04.2404,))~~) or 82.04.260 (~~((1), (2),~~
19 ~~(4), (11), or (12))~~) (3) or (4), including those persons who are also
20 taxable under RCW 82.04.261, with respect to extracting or
21 manufacturing products in this state are allowed a credit against those
22 taxes for any (i) gross receipts taxes paid to another state with
23 respect to the sales of the products so extracted or manufactured in
24 this state, (ii) manufacturing taxes paid with respect to the
25 manufacturing of products using ingredients so extracted in this state,
26 or (iii) manufacturing taxes paid with respect to manufacturing
27 activities completed in another state for products so manufactured in
28 this state. The amount of the credit may not exceed the tax liability
29 arising under this chapter with respect to the extraction or
30 manufacturing of those products.

31 (5) For the purpose of this section:

32 (a) "Gross receipts tax" means a tax:

33 (i) Which is imposed on or measured by the gross volume of
34 business, in terms of gross receipts or in other terms, and in the
35 determination of which the deductions allowed would not constitute the
36 tax an income tax or value added tax; and

37 (ii) Which is also not, pursuant to law or custom, separately
38 stated from the sales price.

1 (b) "State" means (i) the state of Washington, (ii) a state of the
2 United States other than Washington, or any political subdivision of
3 such other state, (iii) the District of Columbia, and (iv) any foreign
4 country or political subdivision thereof.

5 (c) "Manufacturing tax" means a gross receipts tax imposed on the
6 act or privilege of engaging in business as a manufacturer, and
7 includes (i) the taxes imposed on persons who are engaged in business
8 as a manufacturer in RCW 82.04.240(~~(, 82.04.2404, 82.04.2909(1),)~~) and
9 82.04.260 ((~~(1), (2), (4), (11), and (12), and 82.04.294(1)~~)) (3) or
10 (4); (ii) the tax imposed under RCW 82.04.261 on persons who are
11 engaged in business as a manufacturer; and (iii) similar gross receipts
12 taxes paid to other states.

13 (d) "Extracting tax" means a gross receipts tax imposed on the act
14 or privilege of engaging in business as an extractor, and includes (i)
15 the tax imposed on extractors in RCW 82.04.230 and 82.04.260(~~((+12))~~)
16 (4); (ii) the tax imposed under RCW 82.04.261 on persons who are
17 engaged in business as an extractor; and (iii) similar gross receipts
18 taxes paid to other states.

19 (e) "Business", "manufacturer", "extractor", and other terms used
20 in this section have the meanings given in RCW 82.04.020 through
21 (~~(82.04.212 [82.04.217])~~) 82.04.217, notwithstanding the use of those
22 terms in the context of describing taxes imposed by other states.

23 **Sec. 227.** RCW 82.04.4451 and 2010 1st sp.s. c 23 s 1102 are each
24 amended to read as follows:

25 (1) In computing the tax imposed under this chapter, a credit is
26 allowed against the amount of tax otherwise due under this chapter, as
27 provided in this section. Except for taxpayers that report at least
28 fifty percent of their taxable amount under RCW (~~(82.04.255,)~~)
29 82.04.290(~~((+2)(a),)~~) and 82.04.285, the maximum credit for a taxpayer
30 for a reporting period is thirty-five dollars multiplied by the number
31 of months in the reporting period, as determined under RCW 82.32.045.
32 For a taxpayer that reports at least fifty percent of its taxable
33 amount under RCW (~~(82.04.255,)~~) 82.04.290(~~((+2)(a),)~~) and 82.04.285, the
34 maximum credit for a reporting period is seventy dollars multiplied by
35 the number of months in the reporting period, as determined under RCW
36 82.32.045.

1 (2) When the amount of tax otherwise due under this chapter is
2 equal to or less than the maximum credit, a credit is allowed equal to
3 the amount of tax otherwise due under this chapter.

4 (3) When the amount of tax otherwise due under this chapter exceeds
5 the maximum credit, a reduced credit is allowed equal to twice the
6 maximum credit, minus the tax otherwise due under this chapter, but not
7 less than zero.

8 (4) The department may prepare a tax credit table consisting of tax
9 ranges using increments of no more than five dollars and a
10 corresponding tax credit to be applied to those tax ranges. The table
11 (~~shall~~) must be prepared in such a manner that no taxpayer will owe
12 a greater amount of tax by using the table than would be owed by
13 performing the calculation under subsections (1) through (3) of this
14 section. A table prepared by the department under this subsection must
15 be used by all taxpayers in taking the credit provided in this section.

16 **Sec. 228.** RCW 82.04.44525 and 2009 c 535 s 1104 are each amended
17 to read as follows:

18 (1) Subject to the limits in this section, an eligible person is
19 allowed a credit against the tax due under this chapter. The credit is
20 based on qualified employment positions in eligible areas. The credit
21 is available to persons who are engaged in international services as
22 defined in this section. In order to receive the credit, the
23 international service activities must take place at a business within
24 the eligible area.

25 (2)(a) The credit (~~shall~~) equals three thousand dollars for each
26 qualified employment position created after July 1, 1998, in an
27 eligible area. A credit is earned for the calendar year the person is
28 hired to fill the position, plus the four subsequent consecutive years,
29 if the position is maintained for those four years.

30 (b) Credit may not be taken for hiring of persons into positions
31 that exist on July 1, 1998. Credit is authorized for new employees
32 hired for new positions created after July 1, 1998. New positions
33 filled by existing employees are eligible for the credit under this
34 section only if the position vacated by the existing employee is filled
35 by a new hire.

36 (c) When a position is newly created, if it is filled before July

1 1st, this position is eligible for the full yearly credit. If it is
2 filled after June 30th, this position is eligible for half of the
3 credit.

4 (d) Credit may be accrued and carried over until it is used. No
5 refunds may be granted for credits under this section.

6 (3) For the purposes of this section:

7 (a) "Eligible area" means: (i) A community empowerment zone under
8 RCW 43.31C.020; or (ii) a contiguous group of census tracts that meets
9 the unemployment and poverty criteria of RCW 43.31C.030 and is
10 designated under subsection (4) of this section;

11 (b) "Eligible person" means a person, as defined in RCW 82.04.030,
12 who in an eligible area at a specific location is engaged in the
13 business of providing international services;

14 (c)(i) "International services" means the provision of a service,
15 as defined under (c)(iii) of this subsection, that is subject to tax
16 under RCW 82.04.290 (~~((2) or (3))~~), and either:

17 (A) Is for a person domiciled outside the United States; or

18 (B) The service itself is for use primarily outside of the United
19 States.

20 (ii) "International services" excludes (~~(any service taxable under~~
21 ~~RCW 82.04.290(1))~~) international investment management services.

22 (iii) Eligible services are: Computer; data processing;
23 information; legal; accounting and tax preparation; engineering;
24 architectural; business consulting; business management; public
25 relations and advertising; surveying; geological consulting; real
26 estate appraisal; or financial services. For the purposes of this
27 section these services mean the following:

28 (A) "Computer services" are services such as computer programming,
29 custom software modification, customization of canned software, custom
30 software installation, custom software maintenance, custom software
31 repair, training in the use of software, computer systems design, and
32 custom software update services;

33 (B) "Data processing services" are services such as word
34 processing, data entry, data retrieval, data search, information
35 compilation, payroll processing, business accounts processing, data
36 production, and other computerized data and information storage or
37 manipulation. "Data processing services" also includes the use of a

1 computer or computer time for data processing whether the processing is
2 performed by the provider of the computer or by the purchaser or other
3 beneficiary of the service;

4 (C) "Information services" are services such as electronic data
5 retrieval or research that entails furnishing financial or legal
6 information, data or research, internet access as defined in RCW
7 82.04.297, general or specialized news, or current information;

8 (D) "Legal services" are services such as representation by an
9 attorney, or other person when permitted, in an administrative or legal
10 proceeding, legal drafting, paralegal services, legal research
11 services, and court reporting services, arbitration, and mediation
12 services;

13 (E) "Accounting and tax preparation services" are services such as
14 accounting, auditing, actuarial, bookkeeping, or tax preparation
15 services;

16 (F) "Engineering services" are services such as civil, electrical,
17 mechanical, petroleum, marine, nuclear, and design engineering, machine
18 designing, machine tool designing, and sewage disposal system designing
19 services;

20 (G) "Architectural services" are services such as structural or
21 landscape design or architecture, interior design, building design,
22 building program management, and space planning services;

23 (H) "Business consulting services" are services such as primarily
24 providing operating counsel, advice, or assistance to the management or
25 owner of any business, private, nonprofit, or public organization,
26 including but not limited to those in the following areas:
27 Administrative management consulting; general management consulting;
28 human resource consulting or training; management engineering
29 consulting; management information systems consulting; manufacturing
30 management consulting; marketing consulting; operations research
31 consulting; personnel management consulting; physical distribution
32 consulting; site location consulting; economic consulting; motel,
33 hotel, and resort consulting; restaurant consulting; government affairs
34 consulting; and lobbying;

35 (I) "Business management services" are services such as
36 administrative management, business management, and office management.
37 "Business management services" does not include property management or

1 property leasing, motel, hotel, and resort management, or automobile
2 parking management;

3 (J) "Public relations and advertising services" are services such
4 as layout, art direction, graphic design, copy writing, mechanical
5 preparation, opinion research, marketing research, marketing, or
6 production supervision;

7 (K) "Surveying services" are services such as land surveying;

8 (L) "Geological consulting services" are services rendered for the
9 oil, gas, and mining industry and other earth resource industries, and
10 other services such as soil testing;

11 (M) "Real estate appraisal services" are services such as market
12 appraisal and other real estate valuation; and

13 (N) "Financial services" are services such as banking, loan,
14 security, investment management, investment advisory, mortgage
15 servicing, contract collection, and finance leasing services, engaged
16 in by financial businesses, or businesses similar to or in competition
17 with financial businesses; and

18 (d) "Qualified employment position" means a permanent full-time
19 position to provide international services. If an employee is either
20 voluntarily or involuntarily separated from employment, the employment
21 position is considered filled on a full-time basis if the employer is
22 either training or actively recruiting a replacement employee.

23 (4) By ordinance, the legislative authority of a city, or
24 legislative authorities of contiguous cities by ordinance of each
25 city's legislative authority, with population greater than eighty
26 thousand, located in a county containing no community empowerment zones
27 as designated under RCW 43.31C.020, may designate a contiguous group of
28 census tracts within the city or cities as an eligible area under this
29 section. Each of the census tracts must meet the unemployment and
30 poverty criteria of RCW 43.31C.030. Upon making the designation, the
31 city or cities (~~shall~~) must transmit to the department of revenue a
32 certification letter and a map, each explicitly describing the
33 boundaries of the census tract. This designation must be made by
34 December 31, 1998.

35 (5) No application is necessary for the tax credit. The person
36 must keep records necessary for the department to verify eligibility
37 under this section. This information includes:

38 (a) Employment records for the previous six years;

1 (b) Information relating to description of international service
2 activity engaged in at the eligible location by the person; and

3 (c) Information relating to customers of international service
4 activity engaged in at that location by the person.

5 (6) If at any time the department finds that a person is not
6 eligible for tax credit under this section, the amount of taxes for
7 which a credit has been used (~~(shall be)~~) is immediately due. The
8 department (~~(shall)~~) must assess interest, but not penalties, on the
9 credited taxes for which the person is not eligible. The interest
10 (~~(shall be)~~) is assessed at the rate provided for delinquent excise
11 taxes under chapter 82.32 RCW, (~~(shall be)~~) is assessed retroactively
12 to the date the tax credit was taken, and (~~(shall)~~) accrues until the
13 taxes for which a credit has been used are repaid.

14 (7) The employment security department (~~(shall)~~) must provide to
15 the department of revenue such information needed by the department of
16 revenue to verify eligibility under this section.

17 **Sec. 229.** RCW 82.04.4463 and 2010 1st sp.s. c 23 s 515 are each
18 amended to read as follows:

19 (1) In computing the tax imposed under this chapter, a credit is
20 allowed for property taxes and leasehold excise taxes paid during the
21 calendar year.

22 (2) The credit is equal to:

23 (a)(i)(A) Property taxes paid on buildings, and land upon which the
24 buildings are located, constructed after December 1, 2003, and used
25 exclusively in manufacturing commercial airplanes or components of such
26 airplanes; and

27 (B) Leasehold excise taxes paid with respect to buildings
28 constructed after January 1, 2006, the land upon which the buildings
29 are located, or both, if the buildings are used exclusively in
30 manufacturing commercial airplanes or components of such airplanes; and

31 (C) Property taxes or leasehold excise taxes paid on, or with
32 respect to, buildings constructed after June 30, 2008, the land upon
33 which the buildings are located, or both, and used exclusively for
34 aerospace product development, manufacturing tooling specifically
35 designed for use in manufacturing commercial airplanes or their
36 components, or in providing aerospace services, by persons not within

1 the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable
2 under RCW 82.04.290(~~((3))~~) (4), 82.04.260(~~((10))~~) (3)(b), or
3 82.04.250(3); or

4 (ii) Property taxes attributable to an increase in assessed value
5 due to the renovation or expansion, after: (A) December 1, 2003, of a
6 building used exclusively in manufacturing commercial airplanes or
7 components of such airplanes; and (B) June 30, 2008, of buildings used
8 exclusively for aerospace product development, manufacturing tooling
9 specifically designed for use in manufacturing commercial airplanes or
10 their components, or in providing aerospace services, by persons not
11 within the scope of (a)(ii)(A) of this subsection (2) and are taxable
12 under RCW 82.04.290(~~((3))~~) (4), 82.04.260(~~((10))~~) (3)(b), or
13 82.04.250(3); and

14 (b) An amount equal to:

15 (i)(A) Property taxes paid, by persons taxable under RCW
16 82.04.260(~~((10))~~) (3)(a), on machinery and equipment exempt under RCW
17 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

18 (B) Property taxes paid, by persons taxable under RCW
19 82.04.260(~~((10))~~) (3)(b), on machinery and equipment exempt under RCW
20 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

21 (C) Property taxes paid, by persons taxable under RCW 82.04.250(3)
22 or 82.04.290(~~((3))~~) (4), on computer hardware, computer peripherals,
23 and software exempt under RCW 82.08.975 or 82.12.975 and acquired after
24 June 30, 2008.

25 (ii) For purposes of determining the amount eligible for credit
26 under (i)(A) and (B) of this subsection (2)(b), the amount of property
27 taxes paid is multiplied by a fraction.

28 (A) The numerator of the fraction is the total taxable amount
29 subject to the tax imposed under RCW 82.04.260(~~((10))~~) (3) (a) or (b)
30 on the applicable business activities of manufacturing commercial
31 airplanes, components of such airplanes, or tooling specifically
32 designed for use in the manufacturing of commercial airplanes or
33 components of such airplanes.

34 (B) The denominator of the fraction is the total taxable amount
35 subject to the tax imposed under all manufacturing classifications in
36 chapter 82.04 RCW.

37 (C) For purposes of both the numerator and denominator of the
38 fraction, the total taxable amount refers to the total taxable amount

1 required to be reported on the person's returns for the calendar year
2 before the calendar year in which the credit under this section is
3 earned. The department may provide for an alternative method for
4 calculating the numerator in cases where the tax rate provided in RCW
5 82.04.260(~~(+10)~~) (3) for manufacturing was not in effect during the
6 full calendar year before the calendar year in which the credit under
7 this section is earned.

8 (D) No credit is available under (b)(i)(A) or (B) of this
9 subsection (2) if either the numerator or the denominator of the
10 fraction is zero. If the fraction is greater than or equal to nine-
11 tenths, then the fraction is rounded to one.

12 (E) As used in (b)(ii)(C) of this subsection (2), "returns" means
13 the tax returns for which the tax imposed under this chapter is
14 reported to the department.

15 (3) The definitions in this subsection apply throughout this
16 section, unless the context clearly indicates otherwise.

17 (a) "Aerospace product development" has the same meaning as
18 provided in RCW 82.04.4461.

19 (b) "Aerospace services" has the same meaning given in RCW
20 82.08.975.

21 (c) "Commercial airplane" and "component" have the same meanings as
22 provided in RCW 82.32.550.

23 (4) A credit earned during one calendar year may be carried over to
24 be credited against taxes incurred in a subsequent calendar year, but
25 may not be carried over a second year. No refunds may be granted for
26 credits under this section.

27 (5) In addition to all other requirements under this title, a
28 person claiming the credit under this section must file a complete
29 annual report with the department under RCW 82.32.534.

30 (6) This section expires July 1, (~~(2024)~~) 2025.

31 **Sec. 230.** RCW 82.04.4483 and 2010 c 114 s 119 are each amended to
32 read as follows:

33 (1) Subject to the limits and provisions of this section, a credit
34 is authorized against the tax otherwise due under this chapter for
35 persons engaged in a rural county in the business of manufacturing
36 computer software or programming, as those terms are defined in this
37 section.

1 (2) A person who partially or totally relocates a business from one
2 rural county to another rural county is eligible for any new qualifying
3 employment positions created as a result of the relocation but is not
4 eligible to receive credit for the jobs moved from one county to the
5 other.

6 (3)(a) To qualify for the credit, the qualifying activity of the
7 person must be conducted in a rural county and the new qualified
8 employment position must be located in the rural county.

9 (b) If an activity is conducted both from a rural county and
10 outside of a rural county, the credit is available if at least ninety
11 percent of the qualifying activity is conducted within a rural county.
12 If the qualifying activity is a service taxable activity, the place
13 where the work is performed is the place at which the activity is
14 conducted.

15 (4)(a) The credit under this section (~~shall~~) equals one thousand
16 dollars for each new qualified employment position created after
17 January 1, 2004, in an eligible area. A credit is earned for the
18 calendar year the person is hired to fill the position. Additionally
19 a credit is earned for each year the position is maintained over the
20 subsequent consecutive years, up to four years. The county must meet
21 the definition of a rural county at the time the position is filled.
22 If the county does not have a rural county status the following year or
23 years, the position is still eligible for the remaining years if all
24 other conditions are met.

25 (b) Participants who claimed credit under RCW 82.04.4456 for
26 qualified employment positions created before December 31, 2003, are
27 eligible to earn credit for each year the position is maintained over
28 the subsequent consecutive years, for up to four years, which four
29 years include any years claimed under RCW 82.04.4456. Those persons
30 who did not receive a credit under RCW 82.04.4456 before December 31,
31 2003, are not eligible to earn credit for qualified employment
32 positions created before December 31, 2003.

33 (c) Credit is authorized for new employees hired for new qualified
34 employment positions created on or after January 1, 2004. New
35 qualified employment positions filled by existing employees are
36 eligible for the credit under this section only if the position vacated
37 by the existing employee is filled by a new hire. A business that is

1 a sole proprietorship without any employees is equivalent to one
2 employee position and this type of business is eligible to receive
3 credit for one position.

4 (d) If a position is filled before July 1st, the position is
5 eligible for the full yearly credit for that calendar year. If it is
6 filled after June 30th, the position is eligible for half of the credit
7 for that calendar year.

8 (5) No application is necessary for the tax credit. The person
9 must keep records necessary for the department to verify eligibility
10 under this section. This information includes information relating to
11 description of qualifying activity conducted in the rural county and
12 outside the rural county by the person as well as detailed records on
13 positions and employees.

14 (6) If at any time the department finds that a person is not
15 eligible for tax credit under this section, the amount of taxes for
16 which a credit has been claimed is immediately due. The department
17 must assess interest, but not penalties, on the taxes for which the
18 person is not eligible. The interest must be assessed at the rate
19 provided for delinquent excise taxes under chapter 82.32 RCW, applies
20 retroactively to the date the tax credit was taken, and accrues until
21 the taxes for which a credit has been used are repaid.

22 (7) The credit under this section may be used against any tax due
23 under this chapter, but in no case may a credit earned during one
24 calendar year be carried over to be credited against taxes incurred in
25 a subsequent calendar year. A person is not eligible to receive a
26 credit under this section if the person is receiving credit for the
27 same position under chapter 82.62 RCW or RCW 82.04.44525 or is taking
28 a credit under this chapter for information technology help desk
29 services conducted from a rural county. No refunds may be granted for
30 credits under this section.

31 (8) Transfer of ownership does not affect credit eligibility.
32 However, the successive credits are available to the successor for
33 remaining periods in the five years only if the eligibility conditions
34 of this section are met.

35 (9) A person claiming a tax credit under this section must file a
36 complete annual survey with the department under RCW 82.32.585.

37 (10) As used in this section:

1 (a) "Computer software" has the meaning as defined in RCW 82.04.215
2 after June 30, 2004, and includes "software" as defined in RCW
3 82.04.215 before July 1, 2004.

4 (b) "Manufacturing" means the same as "to manufacture" under RCW
5 82.04.120. Manufacturing includes the activities of both manufacturers
6 and processors for hire.

7 (c) "Programming" means the activities that involve the creation or
8 modification of computer software, as that term is defined in this
9 chapter, and that are taxable as a service under RCW 82.04.290(~~(+2)~~)
10 or as a retail sale under RCW 82.04.050.

11 (d) "Qualifying activity" means manufacturing of computer software
12 or programming.

13 (e) "Qualified employment position" means a permanent full-time
14 position doing programming of computer software or manufacturing of
15 computer software. This excludes administrative, professional,
16 service, executive, and other similar positions. If an employee is
17 either voluntarily or involuntarily separated from employment, the
18 employment position is considered filled on a full-time basis if the
19 employer is either training or actively recruiting a replacement
20 employee. Full-time means a position for at least thirty-five hours a
21 week.

22 (f) "Rural county" means the same as in RCW 82.14.370.

23 (11) No credit may be taken or accrued under this section on or
24 after January 1, (~~2011~~) 2012.

25 **Sec. 231.** RCW 82.04.460 and 2011 c 174 s 203 are each amended to
26 read as follows:

27 (1) Except as otherwise provided in this section, any person
28 earning apportionable income taxable under this chapter and also
29 taxable in another state must, for the purpose of computing tax
30 liability under this chapter, apportion to this state, in accordance
31 with RCW 82.04.462, that portion of the person's apportionable income
32 derived from business activities performed within this state.

33 (2) The department must by rule provide a method of apportioning
34 the apportionable income of financial institutions, where such
35 apportionable income is taxable under RCW 82.04.290. The rule adopted
36 by the department must, to the extent feasible, be consistent with the
37 multistate tax commission's recommended formula for the apportionment

1 and allocation of net income of financial institutions as existing on
2 June 1, 2010, or such subsequent date as may be provided by the
3 department by rule, consistent with the purposes of this section,
4 except that:

5 (a) The department's rule must provide for a single factor
6 apportionment method based on the receipts factor; and

7 (b) The definition of "financial institution" contained in appendix
8 A to the multistate tax commission's recommended formula for the
9 apportionment and allocation of net income of financial institutions is
10 advisory only.

11 (3) The department may by rule provide a method or methods of
12 apportioning or allocating gross income derived from sales of
13 telecommunications service and competitive telephone service taxed
14 under this chapter, if the gross proceeds of sales subject to tax under
15 this chapter do not fairly represent the extent of the taxpayer's
16 income attributable to this state. The rule must provide for an
17 equitable and constitutionally permissible division of the tax base.

18 (4) For purposes of this section, the following definitions apply
19 unless the context clearly requires otherwise:

20 (a) "Apportionable income" means gross income of the business
21 generated from engaging in apportionable activities, including income
22 received from apportionable activities performed outside this state if
23 the income would be taxable under this chapter if received from
24 activities in this state, less the exemptions and deductions allowable
25 under this chapter. For purposes of this subsection, "apportionable
26 activities" means only those activities taxed under:

27 (i) ~~((RCW 82.04.255;~~
28 ~~(ii))~~ RCW 82.04.260 ~~((3), (4), (5), (6), (7), (8), (9), and~~
29 ~~(12))~~ (1) and (2);
30 ~~((iii) RCW 82.04.280 (1)(e);~~
31 ~~(iv))~~ RCW 82.04.285;
32 ~~((v))~~ (ii) RCW 82.04.286;
33 ~~((vi))~~ (iii) RCW 82.04.290;
34 ~~((vii) RCW 82.04.2907;~~
35 ~~(viii) RCW 82.04.2908;~~
36 ~~(ix))~~ (iv) RCW 82.04.263, but only to the extent of any activity
37 that would be taxable under ~~((any of the provisions enumerated under~~

1 ~~(a)(i) through (viii) of this subsection (4))~~ RCW 82.04.290 if the tax
2 classification in RCW 82.04.263 did not exist; and

3 ~~((x))~~ (v) RCW 82.04.260~~((+13))~~ (5) and 82.04.280(1)(a), but only
4 with respect to advertising.

5 (b)(i) "Taxable in another state" means that the taxpayer is
6 subject to a business activities tax by another state on its income
7 received from engaging in apportionable activities; or the taxpayer is
8 not subject to a business activities tax by another state on its income
9 received from engaging in apportionable activities, but any other state
10 has jurisdiction to subject the taxpayer to a business activities tax
11 on such income under the substantial nexus standards in RCW
12 82.04.067(1).

13 (ii) For purposes of this subsection (4)(b), "business activities
14 tax" and "state" have the same meaning as in RCW 82.04.462.

15 **Sec. 232.** RCW 82.04.540 and 2006 c 301 s 1 are each amended to
16 read as follows:

17 (1) The provision of professional employer services by a
18 professional employer organization is taxable under RCW
19 82.04.290~~((+2))~~.

20 (2) A professional employer organization is allowed a deduction
21 from the gross income of the business derived from performing
22 professional employer services that is equal to the portion of the fee
23 charged to a client that represents the actual cost of wages and
24 salaries, benefits, workers' compensation, payroll taxes, withholding,
25 or other assessments paid to or on behalf of a covered employee by the
26 professional employer organization under a professional employer
27 agreement.

28 (3) For the purposes of this section, the following definitions
29 apply:

30 (a) "Client" means any person who enters into a professional
31 employer agreement with a professional employer organization. For
32 purposes of this subsection (3)(a), "person" has the same meaning as
33 "buyer" in RCW 82.08.010.

34 (b) "Coemployer" means either a professional employer organization
35 or a client.

36 (c) "Coemployment relationship" means a relationship which is
37 intended to be an ongoing relationship rather than a temporary or

1 project-specific one, wherein the rights, duties, and obligations of an
2 employer which arise out of an employment relationship have been
3 allocated between coemployers pursuant to a professional employer
4 agreement and applicable state law. In such a coemployment
5 relationship:

6 (i) The professional employer organization is entitled to enforce
7 only such employer rights and is subject to only those obligations
8 specifically allocated to the professional employer organization by the
9 professional employer agreement or applicable state law;

10 (ii) The client is entitled to enforce those rights and obligated
11 to provide and perform those employer obligations allocated to such
12 client by the professional employer agreement and applicable state law;
13 and

14 (iii) The client is entitled to enforce any right and obligated to
15 perform any obligation of an employer not specifically allocated to the
16 professional employer organization by the professional employer
17 agreement or applicable state law.

18 (d) "Covered employee" means an individual having a coemployment
19 relationship with a professional employer organization and a client who
20 meets all of the following criteria: (i) The individual has received
21 written notice of coemployment with the professional employer
22 organization, and (ii) the individual's coemployment relationship is
23 pursuant to a professional employer agreement. Individuals who are
24 officers, directors, shareholders, partners, and managers of the client
25 are covered employees to the extent the professional employer
26 organization and the client have expressly agreed in the professional
27 employer agreement that such individuals would be covered employees and
28 provided such individuals meet the criteria of this subsection and act
29 as operational managers or perform day-to-day operational services for
30 the client.

31 (e) "Professional employer agreement" means a written contract by
32 and between a client and a professional employer organization that
33 provides:

34 (i) For the coemployment of covered employees; and

35 (ii) For the allocation of employer rights and obligations between
36 the client and the professional employer organization with respect to
37 the covered employees.

1 (f) "Professional employer organization" means any person engaged
2 in the business of providing professional employer services. The
3 following (~~shall~~) are not (~~be~~) deemed to be professional employer
4 organizations or the providing of professional employer services for
5 purposes of this section:

6 (i) Arrangements wherein a person, whose principal business
7 activity is not entering into professional employer arrangements and
8 which does not hold itself out as a professional employer organization,
9 shares employees with a commonly owned company within the meaning of
10 (~~section~~) 26 U.S.C. Sec. 414(b) and (c) of the internal revenue code
11 of 1986, as amended;

12 (ii) Independent contractor arrangements by which a person assumes
13 responsibility for the product produced or service performed by such
14 person or his or her agents and retains and exercises primary direction
15 and control over the work performed by the individuals whose services
16 are supplied under such arrangements; or

17 (iii) Providing staffing services.

18 (g) "Professional employer services" means the service of entering
19 into a coemployment relationship with a client in which all or a
20 majority of the employees providing services to a client or to a
21 division or work unit of a client are covered employees.

22 (h) "Staffing services" means services consisting of a person:

23 (i) Recruiting and hiring its own employees;

24 (ii) Finding other organizations that need the services of those
25 employees;

26 (iii) Assigning those employees on a temporary basis to perform
27 work at or services for the other organizations to support or
28 supplement the other organizations' workforces, or to provide
29 assistance in special work situations such as, but not limited to,
30 employee absences, skill shortages, seasonal workloads, or to perform
31 special assignments or projects, all under the direction and
32 supervision of the customer; and

33 (iv) Customarily attempting to reassign the employees to other
34 organizations when they finish each assignment.

35 **Sec. 233.** RCW 82.04.620 and 2007 c 447 s 1 are each amended to
36 read as follows:

37 In computing tax there may be deducted from the measure of tax

1 imposed by RCW 82.04.290(~~(+2)~~) amounts received by physicians or
2 clinics for drugs for infusion or injection by licensed physicians or
3 their agents for human use pursuant to a prescription, but only if the
4 amounts: (1) Are separately stated on invoices or other billing
5 statements; (2) do not exceed the then current federal rate; and (3)
6 are covered or required under a health care service program subsidized
7 by the federal or state government. The federal rate means the rate at
8 or below which the federal government or its agents reimburse providers
9 for prescription drugs administered to patients as provided for in the
10 medicare, part B, drugs average sales price information resource as
11 published by the United States department of health and human services,
12 or any successor index thereto.

13 **Sec. 234.** RCW 82.08.806 and 2011 c 174 s 204 are each amended to
14 read as follows:

15 (1) The tax levied by RCW 82.08.020 does not apply to sales, to a
16 printer or publisher, of computer equipment, including repair parts and
17 replacement parts for such equipment, when the computer equipment is
18 used primarily in the printing or publishing of any printed material,
19 or to sales of or charges made for labor and services rendered in
20 respect to installing, repairing, cleaning, altering, or improving the
21 computer equipment. This exemption applies only to computer equipment
22 not otherwise exempt under RCW 82.08.02565.

23 (2) A person taking the exemption under this section must keep
24 records necessary for the department to verify eligibility under this
25 section. This exemption is available only when the purchaser provides
26 the seller with an exemption certificate in a form and manner
27 prescribed by the department. The seller must retain a copy of the
28 certificate for the seller's files.

29 (3) The definitions in this subsection (3) apply throughout this
30 section, unless the context clearly requires otherwise.

31 (a) "Computer" has the same meaning as in RCW 82.04.215.

32 (b) "Computer equipment" means a computer and the associated
33 physical components that constitute a computer system, including
34 monitors, keyboards, printers, modems, scanners, pointing devices, and
35 other computer peripheral equipment, cables, servers, and routers.
36 "Computer equipment" also includes digital cameras and computer
37 software.

1 (c) "Computer software" has the same meaning as in RCW 82.04.215.

2 (d) "Primarily" means greater than fifty percent as measured by
3 time.

4 (e) "Printer or publisher" means a person, as defined in RCW
5 82.04.030, who is subject to tax under RCW 82.04.260(~~(+13)~~) (5) or
6 82.04.280(1)(a).

7 (4) "Computer equipment" does not include computer equipment that
8 is used primarily for administrative purposes including but not limited
9 to payroll processing, accounting, customer service, telemarketing, and
10 collection. If computer equipment is used simultaneously for
11 administrative and nonadministrative purposes, the administrative use
12 must be disregarded during the period of simultaneous use for purposes
13 of determining whether the computer equipment is used primarily for
14 administrative purposes.

15 **Sec. 235.** RCW 82.16.100 and 2001 c 320 s 8 are each amended to
16 read as follows:

17 The business of collection, receipt, transfer, including
18 transportation between any locations, storage, or disposal of solid
19 waste is not subject to this chapter. Any such business activities are
20 subject to taxation under the classification in RCW 82.04.290(~~(+2)~~).
21 "Solid waste" for purposes of this section is defined in RCW 82.18.010.

22 **Sec. 236.** RCW 82.32.045 and 2010 1st sp.s. c 23 s 1103 are each
23 amended to read as follows:

24 (1) Except as otherwise provided in this chapter, payments of the
25 taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW,
26 along with reports and returns on forms prescribed by the department,
27 are due monthly within twenty-five days after the end of the month in
28 which the taxable activities occur.

29 (2) The department of revenue may relieve any taxpayer or class of
30 taxpayers from the obligation of remitting monthly and may require the
31 return to cover other longer reporting periods, but in no event may
32 returns be filed for a period greater than one year. For these
33 taxpayers, tax payments are due on or before the last day of the month
34 next succeeding the end of the period covered by the return.

35 (3) The department of revenue may also require verified annual

1 returns from any taxpayer, setting forth such additional information as
2 it may deem necessary to correctly determine tax liability.

3 (4) Notwithstanding subsections (1) and (2) of this section, the
4 department may relieve any person of the requirement to file returns if
5 the following conditions are met:

6 (a) The person's value of products, gross proceeds of sales, or
7 gross income of the business, from all business activities taxable
8 under chapter 82.04 RCW, is less than:

9 (i) Twenty-eight thousand dollars per year; or

10 (ii) Forty-six thousand six hundred sixty-seven dollars per year
11 for persons generating at least fifty percent of their taxable amount
12 from activities taxable under RCW (~~(82.04.255,)~~) 82.04.290(~~((2)(a),)~~)
13 and 82.04.285;

14 (b) The person's gross income of the business from all activities
15 taxable under chapter 82.16 RCW is less than twenty-four thousand
16 dollars per year; and

17 (c) The person is not required to collect or pay to the department
18 of revenue any other tax or fee which the department is authorized to
19 collect.

20 **Sec. 237.** RCW 82.32.533 and 2010 c 111 s 801 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (2) of this section, no person
23 may be held liable for the failure to collect or pay state and local
24 sales and use taxes accrued before July 26, 2009, on the sale or use of
25 digital goods or of services defined as a retail sale in RCW
26 82.04.050(2)(a) and rendered in respect to digital goods.

27 (2) Subsection (1) of this section does not relieve any person from
28 liability for state and local sales taxes that the person collected
29 from buyers but did not remit to the department of revenue.

30 (3) Nothing in this section may be construed as authorizing the
31 refund of state and local sales and use taxes properly paid on the sale
32 or use, before July 26, 2009, of digital goods or of services defined
33 as a retail sale in RCW 82.04.050(2)(a) and rendered in respect to
34 digital goods.

35 (4) A person is not entitled to a credit or refund of any business
36 and occupation tax paid in excess of that properly due as a result of
37 the person paying tax on its income earned from the sale of eligible

1 digital products and services at the tax rate provided in RCW
2 82.04.290(~~((2)(a))~~) rather than the tax rate provided in RCW
3 82.04.250(~~((1))~~), unless the person requesting the credit or refund has
4 paid the proper amount of state and local sales taxes due on the sales
5 of the eligible digital products and services that generated the income
6 in respect to which the business and occupation tax credit or refund is
7 sought. For purposes of this subsection, "eligible digital products
8 and services" means: (a) Digital goods; and (b) services defined as a
9 retail sale in RCW 82.04.050(2)(a) and rendered in respect to digital
10 goods.

11 (5) For purposes of this section, "digital goods" has the same
12 meaning as in RCW 82.04.192.

13 **Sec. 238.** RCW 82.45.195 and 2010 1st sp.s. c 23 s 518 are each
14 amended to read as follows:

15 A sale of standing timber is exempt from tax under this chapter if
16 the gross income from such sale is taxable under RCW 82.04.260(~~((11))~~)
17 (4)(d).

18 **PART III**
19 **MISCELLANEOUS PROVISIONS**

20 NEW SECTION. **Sec. 301.** (1) Except for section 208 of this act,
21 this act takes effect January 1, 2014.

22 (2) Section 208 of this act takes effect July 1, 2015.

23 NEW SECTION. **Sec. 302.** Section 207 of this act expires July 1,
24 2015.

25 NEW SECTION. **Sec. 303.** The provisions of this act are to be
26 liberally construed to effectuate the intent, policies, and purpose of
27 this act to reduce the complexity of state and local business and
28 occupation taxes and to make it easier for businesses to meet their
29 local licensing and business and occupation tax filing obligations.

30 NEW SECTION. **Sec. 304.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

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