**5113 AMS BRAU S2745.3 - NOT FOR FLOOR USE**

**SB 5113** - S AMD **279**

By Senator Braun

**ADOPTED 04/21/2017**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in section 3, chapter . . ., Laws of 2017 (section 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to provide tax relief for certain businesses or individuals, as indicated in RCW 82.32.808(2)(e).

(3) It is the legislature's specific public policy objective to reduce the tax burden on individuals and businesses imposed by the existing business and occupation tax rates.

(4) If the review finds that more than one hundred thousand businesses in the state per year are experiencing tax relief from this tax preference, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

NEW SECTION. **Sec.**  RCW 82.04.4451 (Credit against tax due—Maximum credit—Table) and 2010 1st sp.s. c 23 s 1102, 1997 c 238 s 2, & 1994 sp.s. c 2 s 1 are each repealed.

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

(1) In computing the tax imposed under this chapter, each year a person may deduct from the measure of tax an amount up to:

(a) Two hundred fifty thousand dollars if the person meets the eligibility requirements in subsection (6)(a)(i) of this section; or

(b) One hundred thousand dollars if the person meets the eligibility requirements in subsection (6)(a)(ii) of this section.

(2)(a) A person who is eligible to claim the deduction under this section and who is also entitled to claim a multiple activities tax credit under RCW 82.04.440 may, in lieu of claiming the deduction under this section, elect to claim the deduction in the form of credit as provided in this section. The credit for a calendar year is equal to the lesser of the tax otherwise due under this chapter for that calendar year or an amount determined by:

(i) For a person who is eligible for the deduction under subsection (1)(a) of this section, multiplying two hundred fifty thousand dollars by the highest tax rate applicable to any of the activities conducted by the taxpayer that qualify the taxpayer for a multiple activities tax credit under RCW 82.04.440; or

(ii) For a person who is eligible for the deduction under subsection (1)(b) of this section, multiplying one hundred thousand dollars by the highest tax rate applicable to any of the activities conducted by the taxpayer that qualify the taxpayer for a multiple activities tax credit under RCW 82.04.440.

(b) For purposes of this subsection (2), "tax rate" means the base tax rate applicable to a particular business activity, plus the rate of any additional tax imposed on that business activity under another provision of this chapter.

(c) An election under this subsection to claim the deduction in the form of a credit applies for a full calendar year.

(3) No tax under this chapter is due when, in the case of the deduction, the measure of tax for a reporting period is equal to or less than the available deduction, or in the case of the credit, the tax otherwise due for a reporting period is equal to or less than the available credit. Any unused portion of the deduction or credit under this section may be carried forward for tax reporting periods in the same calendar year but otherwise may not be carried forward or backward to tax reporting periods in other calendar years. For taxpayers who report taxes due under this chapter to the department more frequently than annually, the deduction and credit under this section must be used in a prior tax reporting period in the current calendar year before it may be carried forward and used in a subsequent tax reporting period in the current calendar year, unless the taxpayer had no tax liability under this chapter in any prior tax reporting period in the current calendar year. No refunds are allowed for the deduction and credit under this section.

(4) For taxpayers subject to taxes imposed under multiple provisions of this chapter, the deduction under this section must be applied to the measure of tax in order of the business activities taxed at the highest to lowest rates.

(5) The deduction and credit under this section are in addition to any other applicable deductions, exemptions, and credits allowed for the taxes due under this chapter. The deduction and credit in this section must be claimed, in the case of the deduction, after all other deductions are claimed, and in the case of the credit, after all other credits are claimed.

(6)(a)(i) A person is eligible for the deduction under subsection (1)(a) of this section or credit under subsection (2)(a)(i) of this section if the person's taxable amount was less than or equal to two hundred fifty thousand dollars for the calendar year immediately preceding the current calendar year.

(ii) A person is eligible for the deduction under subsection (1)(b) of this section or credit under subsection (2)(a)(ii) of this section if the person's taxable amount exceeded two hundred fifty thousand dollars, but was less than five hundred thousand dollars, for the calendar year immediately preceding the current calendar year.

(b) For purposes of this subsection, if a person is a successor to another person, the successor's taxable amount for the calendar year immediately preceding the successor's first full calendar year of engaging in business within this state, includes the predecessor's taxable amount for the calendar year immediately preceding the successor's first full calendar year of engaging in business within this state.

(c) For purposes of this subsection (6), the following definitions apply:

(i) "Successor" has the same meaning as in RCW 82.04.180(1).

(ii) "Taxable amount" means the taxable amount subject to the tax imposed in this chapter required to be reported on the person's excise tax returns, less any taxable amount for which a multiple activities tax credit is allowed under RCW 82.04.440.

(7) This section expires January 1, 2033.

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

(1) Beginning July 1, 2017, upon every person engaging within the state in selected business activities, an additional tax is imposed. The amount of the additional tax imposed on a person under this section is equal to the tax payable by the person under all other applicable provisions of this chapter on selected business activities, multiplied by twenty percent.

(2) The additional tax under this section is due in the form and manner determined by the department.

(3) For purposes of this section, "selected business activities" means business activities subject to tax under RCW 82.04.230; 82.04.240; 82.04.250 (1) or (2); 82.04.255; 82.04.257; 82.04.260 (3), (9), (10), or (13); 82.04.263; 82.04.270; 82.04.280; 82.04.285; 82.04.290(2), including the activities described in RCW 82.04.29001, 82.04.29005, 82.04.297, and 82.04.540; 82.04.2905; 82.04.2906; 82.04.2907; and 82.04.298; and beginning July 1, 2024, the activities taxed under RCW 82.04.260(14).

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

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

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

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns and pay any taxes otherwise due under chapters 82.04 and 82.16 RCW if the following conditions are met:

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

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

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

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

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

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

NEW SECTION. **Sec.**  The tax collection, reporting, and payment obligations imposed by this act apply prospectively only.

NEW SECTION. **Sec.**  This act takes effect October 1, 2017."

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On page 1, line 2 of the title, after "relief;" strike the remainder of the title and insert "amending RCW 82.32.045; adding new sections to chapter 82.04 RCW; creating new sections; repealing RCW 82.04.4451; providing an effective date; and providing an expiration date."

EFFECT: (1) The filing threshold for B&O taxes is increased to $150,000. A deduction of $250,000 is authorized for businesses with a taxable amount of less than or equal to $250,000. If a business' taxable amount is greater than $250,000, but less than $500,000, there is a deduction of $100,000.

(2) If a taxpayer claims a multiple activities tax credit, they can claim a credit instead of a deduction. The credit for a calendar year will be equal to the lesser of the tax otherwise due for that calendar year or an amount determined as follows:

(a) For a person with a taxable amount of less than or equal to $250,000: $250,000 multiplied by the highest applicable B&O rate to the taxpayer; or

(b) For a person with a taxable amount of greater than $250,000, but less than $500,000: $100,000 multiplied by the highest applicable B&O rate to the taxpayer.

(3) A 20 percent surcharge on the B&O tax is imposed for selected business activities:

(a) Beginning July 1, 2017: Extractors, manufacturers, most retailers, real estate brokers, digital products or services, nonprofit research and development, insurance producers, hospitals, salmon canning, radioactive waste clean-up, wholesalers, insurance agents, radio and television broadcasters, government contractors, printers, publishers, highway contractors, extracting or processing for hire, warehousing, contest of chance, international investment management, custom software, loan interest, royalties, professional employer organizations, day care, chemical dependency services, and grocery distribution co-ops; and

(b) Beginning July 1, 2024: Newspapers.

(4) The small business B&O credit is repealed.

(5) Provides an effective date of October 1, 2017.

FISCAL IMPACT: 2 year - $1.2 billion GF-S revenue increase

4 year - $2.6 billion GF-S revenue increase