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**ENGROSSED SUBSTITUTE HOUSE BILL 1296**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** House Finance (originally sponsored by Representatives Nealey, Springer, Harris, Vick, MacEwen, Stokesbary, Orcutt, Haler, and Condotta)

AN ACT Relating to consolidating and simplifying the annual report and annual survey used for economic development tax incentives; amending RCW 82.32.534, 82.32.590, 82.32.600, 82.32.605, 82.32.607, 82.32.710, 82.32.808, 82.04.240, 82.04.2404, 82.04.2909, 82.04.426, 82.04.4277, 82.04.4461, 82.04.4463, 82.04.448, 82.04.4481, 82.04.4483, 82.04.449, 82.08.805, 82.08.965, 82.08.9651, 82.08.970, 82.08.980, 82.08.986, 82.12.022, 82.12.025651, 82.12.805, 82.12.965, 82.12.9651, 82.12.970, 82.12.980, 82.16.0421, 82.29A.137, 82.60.070, 82.63.020, 82.63.045, 82.74.040, 82.74.050, 82.75.040, 82.75.070, 82.82.020, 82.82.040, 84.36.645, and 84.36.655; reenacting and amending RCW 82.04.260 and 82.32.790; repealing RCW 82.32.585; providing an effective date; and providing a contingent effective date.

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

**Sec.**  RCW 82.32.534 and 2016 c 175 s 1 are each amended to read as follows:

(1)(a)(i) Beginning in calendar year 2018, every person claiming a tax preference that requires ((~~a~~)) an annual tax performance report under this section must file a complete annual report with the department. The report is due by May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section.

(ii) If the tax preference is a deferral of tax, the first annual tax performance report must be filed by May 31st of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete, and an annual tax performance report must be filed by May 31st of each of the seven succeeding calendar years.

(iii) The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment((~~,~~)) and wages((~~, and employer-provided health and retirement benefits~~)) for employment positions in Washington for the year that the tax preference was claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment, wage, and benefit information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed. In lieu of reporting employment and wage data required under this subsection, taxpayers may instead opt to allow the employment security department to release the same employment and wage information from unemployment insurance records to the department and the joint legislative audit and review committee. This option is intended to reduce the reporting burden for taxpayers, and each taxpayer electing to use this option must affirm that election in accordance with procedures approved by the employment security department.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment, wage, and benefit information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2)(a) As part of the annual report, the department and the joint legislative audit and review committee may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(b) The report must include the amount of the tax preference claimed for the calendar year covered by the report. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the report must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(3) Other than information requested under subsection (2)(a) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4)(a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable; ((~~and~~))

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable if the person has previously been assessed under this subsection (4) for failure to submit a report under this section for the same tax preference; and

(iii) If the tax preference is a deferral of tax, the amount immediately due under this subsection is twelve and one-half percent of the deferred tax. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(b) The department may not assess interest or penalties on amounts due under this subsection.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may be included in any category. The department must report these statistics to the legislature each year by December 31st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a ((~~survey~~)) report under this section.

NEW SECTION. **Sec.**  RCW 82.32.585 (Annual survey requirement for tax preferences) and 2016 c 175 s 2, 2014 c 97 s 103, 2011 c 23 s 6, & 2010 c 114 s 102 are each repealed.

**Sec.**  RCW 82.32.590 and 2011 c 174 s 306 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual ((~~survey under RCW 82.32.585 or annual~~)) tax performance report under RCW 82.32.534 by the due date was the result of circumstances beyond the control of the taxpayer, the department must extend the time for filing the ((~~survey or~~)) tax performance report. The extension is for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an ((~~annual survey or~~)) annual tax performance report by the due date was the result of circumstances beyond the control of the taxpayer, the department must be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(3)(a) Subject to the conditions in this subsection (3), a taxpayer who fails to file an annual tax performance report ((~~or annual survey~~)) required under subsection (1) of this section by the due date of the report ((~~or survey~~)) is entitled to an extension of the due date. A request for an extension under this subsection (3) must be made in writing to the department.

(b) To qualify for an extension under this subsection (3), a taxpayer must have filed all annual tax performance reports ((~~and surveys~~)), if any, due in prior years under subsection (1) of this section by their respective due dates, beginning with annual reports ((~~and surveys~~)) due in calendar year 2010.

(c) An extension under this subsection (3) is for ninety days from the original due date of the annual tax performance report ((~~or survey~~)).

(d) No taxpayer may be granted more than one ninety-day extension under this subsection (3).

**Sec.**  RCW 82.32.600 and 2010 c 114 s 136 are each amended to read as follows:

(1) Persons required to file annual ((~~surveys or annual reports under RCW 82.32.534 or 82.32.585~~)) tax performance reports under RCW 82.32.534 must electronically file with the department all ((~~surveys,~~)) reports, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department. As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) Any ((~~survey,~~)) report, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.

(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown.

**Sec.**  RCW 82.32.605 and 2013 2nd sp.s. c 13 s 1004 are each amended to read as follows:

(1) Every taxpayer claiming an exemption under RCW 82.08.956 or 82.12.956 must file with the department a complete annual ((~~survey as required under RCW 82.32.585~~)) tax performance report under RCW 82.32.534, except that the taxpayer must file a separate ((~~survey~~)) tax performance report for each facility owned or operated in the state of Washington.

(2) This section expires June 30, 2024.

**Sec.**  RCW 82.32.607 and 2013 2nd sp.s. c 13 s 1503 are each amended to read as follows:

Every taxpayer claiming an exemption under RCW 82.08.962 or 82.12.962 must file with the department a complete annual ((~~survey as required under RCW 82.32.585~~)) tax performance report under RCW 82.32.534, except that the taxpayer must file a separate ((~~survey~~)) tax performance report for each facility owned or operated in the state of Washington developed with machinery, equipment, services, or labor for which the exemption under RCW 43.136.058, 82.08.962, and 82.12.962 is claimed.

**Sec.**  RCW 82.32.710 and 2010 c 114 s 137 are each amended to read as follows:

(1) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of eligibility for any tax credit, exemption, or other tax incentive, arising as the result of the employment of covered employees, provided in RCW 82.04.4333, 82.04.44525, 82.04.448, 82.04.4483, 82.08.965, 82.12.965, 82.16.0495, or 82.60.049 or chapter 82.62 or 82.70 RCW, or any other provision in this title. A client, and not the professional employer organization, is entitled to the benefit of any tax credit, exemption, or other tax incentive arising as the result of the employment of covered employees of that client.

(2) A client under the terms of a professional employer agreement is deemed to be the sole employer of a covered employee for purposes of tax performance reports ((~~or surveys~~)) that require the reporting of employment information relating to covered employees of the client, as provided in RCW 82.32.534 ((~~or 82.32.585~~)). A client, and not the professional employer organization, is required to complete any ((~~survey or~~)) tax performance report that requires the reporting of employment information relating to covered employees of that client.

(3) For the purposes of this section, "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540.

**Sec.**  RCW 82.32.808 and 2013 2nd sp.s. c 13 s 1702 are each amended to read as follows:

(1) As provided in this section, every bill enacting a new tax preference must include a tax preference performance statement, unless the legislation enacting the new tax preference contains an explicit exemption from the requirements of this section.

(2) A tax preference performance statement must state the legislative purpose for the new tax preference. The tax preference performance statement must indicate one or more of the following general categories, by reference to the applicable category specified in this subsection, as the legislative purpose of the new tax preference:

(a) Tax preferences intended to induce certain designated behavior by taxpayers;

(b) Tax preferences intended to improve industry competitiveness;

(c) Tax preferences intended to create or retain jobs;

(d) Tax preferences intended to reduce structural inefficiencies in the tax structure;

(e) Tax preferences intended to provide tax relief for certain businesses or individuals; or

(f) A general purpose not identified in (a) through (e) of this subsection.

(3) In addition to identifying the general legislative purpose of the tax preference under subsection (2) of this section, the tax preference performance statement must provide additional detailed information regarding the legislative purpose of the new tax preference.

(4) A new tax preference performance statement must specify clear, relevant, and ascertainable metrics and data requirements that allow the joint legislative audit and review committee and the legislature to measure the effectiveness of the new tax preference in achieving the purpose designated under subsection (2) of this section.

(5) If the tax preference performance statement for a new tax preference indicates a legislative purpose described in subsection (2)(b) or (c) of this section, any taxpayer claiming the new tax preference must file an annual ((~~survey~~)) tax performance report in accordance with RCW ((~~82.32.585~~)) 82.32.534.

(6)(a) Taxpayers claiming a new tax preference must report the amount of the tax preference claimed by the taxpayer to the department as otherwise required by statute or determined by the department as part of the taxpayer's regular tax reporting responsibilities. For new tax preferences allowing certain types of gross income of the business to be excluded from business and occupation or public utility taxation, the tax return must explicitly report the amount of the exclusion, regardless of whether it is structured as an exemption or deduction, if the taxpayer is otherwise required to report taxes to the department on a monthly or quarterly basis. For a new sales and use tax exemption, the total ((~~sales or uses~~)) purchase price or value of the exempt product or service subject to the exemption claimed by the buyer must be reported on an addendum to the buyer's tax return if the buyer is otherwise required to report taxes to the department on a monthly or quarterly basis and the buyer is required to submit an exemption certificate, or similar document, to the seller.

(b) This subsection does not apply to:

(i) Property tax exemptions;

(ii) Tax preferences required by constitutional law;

(iii) Tax preferences for which the tax benefit to the taxpayer is less than one thousand dollars per calendar year; or

(iv) Taxpayers who are annual filers.

(c) The department may waive the filing requirements of this subsection for taxpayers who are not required to file electronically any return((~~,~~)) or report((~~, or survey~~)) under this chapter.

(7)(a) Except as otherwise provided in this subsection, the amount claimed by a taxpayer for any new tax preference is subject to public disclosure and is not considered confidential tax information under RCW 82.32.330, if the reporting periods subject to disclosure ended at least twenty-four months prior to the date of disclosure and the taxpayer is required to report the amount of the tax preference claimed by the taxpayer to the department under subsection (6) of this section.

(b)(i) The department may waive the public disclosure requirement under (a) of this subsection (7) for good cause. Good cause may be demonstrated by a reasonable showing of economic harm to a taxpayer if the information specified under this subsection is disclosed. The waiver under this subsection (7)(b)(i) only applies to the new tax preferences provided in chapter 13, Laws of 2013 2nd sp. sess.

(ii) The amount of the tax preference claimed by a taxpayer during a calendar year is confidential under RCW 82.32.330 and may not be disclosed under this subsection if the amount for the calendar year is less than ten thousand dollars.

(c) In lieu of the disclosure and waiver requirements under this subsection, the requirements under RCW ((~~82.32.585~~)) 82.32.534 apply to any tax preference that requires a ((~~survey~~)) tax performance report.

(8) If a new tax preference does not include the information required under subsections (2) through (4) of this section, the joint legislative audit and review committee is not required to perform a tax preference review under chapter 43.136 RCW, and it is legislatively presumed that it is the intent of the legislature to allow the new tax preference to expire upon its scheduled expiration date.

(9) For the purposes of this section, "tax preference" and "new tax preference" have the same meaning as provided in RCW 82.32.805.

**Sec.**  RCW 82.04.240 and 2010 c 114 s 104 are each amended to read as follows:

(1) Upon every person engaging within this state in business as a manufacturer, except persons taxable as manufacturers under other provisions of this chapter; as to such persons the amount of the tax with respect to such business is equal to the value of the products, including byproducts, manufactured, multiplied by the rate of 0.484 percent.

(2)(a) Upon every person engaging within this state in the business of manufacturing semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent. For the purposes of this subsection "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, compound semiconductors, integrated circuits, and microchips.

(b) A person reporting under the tax rate provided in this subsection (2) must file a complete annual tax performance report with the department under RCW 82.32.534.

(c) This subsection (2) expires twelve years after the effective date of this act.

(3) The measure of the tax is the value of the products, including byproducts, so manufactured regardless of the place of sale or the fact that deliveries may be made to points outside the state.

**Sec.**  RCW 82.04.2404 and 2010 c 114 s 105 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing or processing for hire semiconductor materials, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or, in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.275 percent.

(2) For the purposes of this section "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires December 1, 2018.

**Sec.**  RCW 82.04.260 and 2015 3rd sp.s. c 6 s 602 and 2015 3rd sp.s. c 6 s 205 are each reenacted and amended to read as follows:

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

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

(b) Beginning July 1, 2025, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c)(i) ((~~Beginning July 1, 2025~~)) Except as provided otherwise in (c)(iii) of this subsection, from July 1, 2025, until January 1, 2036, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any marijuana-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2025, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include marijuana, useable marijuana, or marijuana-infused products;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) 0.2904 percent beginning July 1, 2007.

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

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

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

(e)(i) Except as provided in (e)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)(e)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850.

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

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

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

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

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

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

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

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

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

(v) "Timber products" means:

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

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

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

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

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534.

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

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.

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

**Sec.**  RCW 82.04.2909 and 2015 3rd sp.s. c 6 s 502 are each amended to read as follows:

(1) Upon every person who is an aluminum smelter engaging within this state in the business of manufacturing aluminum; as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of .2904 percent.

(2) Upon every person who is an aluminum smelter engaging within this state in the business of making sales at wholesale of aluminum manufactured by that person, as to such persons the amount of tax with respect to such business is equal to the gross proceeds of sales of the aluminum multiplied by the rate of .2904 percent.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires January 1, 2027.

**Sec.**  RCW 82.04.426 and 2010 c 114 s 110 are each amended to read as follows:

(1) The tax imposed by RCW 82.04.240(2) does not apply to any person in respect to the manufacturing of semiconductor microchips.

(2) For the purposes of this section:

(a) "Manufacturing semiconductor microchips" means taking raw polished semiconductor wafers and embedding integrated circuits on the wafers using processes such as masking, etching, and diffusion; and

(b) "Integrated circuit" means a set of microminiaturized, electronic circuits.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section expires nine years after the effective date of this act.

**Sec.**  RCW 82.04.4277 and 2016 sp.s. c 29 s 532 are each amended to read as follows:

(1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing mental health services or chemical dependency services under a government-funded program.

(2) A behavioral health organization may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) A person claiming a deduction under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

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

(a) "Chemical dependency" has the same meaning as provided in RCW 70.96A.020.

(b) "Health or social welfare organization" has the meaning provided in RCW 82.04.431.

(c) "Mental health services" and "behavioral health organization" have the meanings provided in RCW 71.24.025.

(5) This section expires January 1, 2020.

**Sec.**  RCW 82.04.4461 and 2013 3rd sp.s. c 2 s 9 are each amended to read as follows:

(1)(a)(i) In computing the tax imposed under this chapter, a credit is allowed for each person for qualified aerospace product development. For a person who is a manufacturer or processor for hire of commercial airplanes or components of such airplanes, credit may be earned for expenditures occurring after December 1, 2003. For all other persons, credit may be earned only for expenditures occurring after June 30, 2008.

(ii) For purposes of this subsection, "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(b) Before July 1, 2005, any credits earned under this section must be accrued and carried forward and may not be used until July 1, 2005. These carryover credits may be used at any time thereafter, and may be carried over until used. Refunds may not be granted in the place of a credit.

(2) The credit is equal to the amount of qualified aerospace product development expenditures of a person, multiplied by the rate of 1.5 percent.

(3) Except as provided in subsection (1)(b) of this section the credit must be claimed against taxes due for the same calendar year in which the qualified aerospace product development expenditures are incurred. Credit earned on or after July 1, 2005, may not be carried over. The credit for each calendar year may not exceed the amount of tax otherwise due under this chapter for the calendar year. Refunds may not be granted in the place of a credit.

(4) Any person claiming the credit must file a form prescribed by the department that must include the amount of the credit claimed, an estimate of the anticipated aerospace product development expenditures during the calendar year for which the credit is claimed, an estimate of the taxable amount during the calendar year for which the credit is claimed, and such additional information as the department may prescribe.

(5) The definitions in this subsection apply throughout this section.

(a) "Aerospace product" has the meaning given in RCW 82.08.975.

(b) "Aerospace product development" means research, design, and engineering activities performed in relation to the development of an aerospace product or of a product line, model, or model derivative of an aerospace product, including prototype development, testing, and certification. The term includes the discovery of technological information, the translating of technological information into new or improved products, processes, techniques, formulas, or inventions, and the adaptation of existing products and models into new products or new models, or derivatives of products or models. The term does not include manufacturing activities or other production-oriented activities, however the term does include tool design and engineering design for the manufacturing process. The term does not include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(c) "Qualified aerospace product development" means aerospace product development performed within this state.

(d) "Qualified aerospace product development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined by the department, benefits, supplies, and computer expenses, directly incurred in qualified aerospace product development by a person claiming the credit provided in this section. The term does not include amounts paid to a person or to the state and any of its departments and institutions, other than a public educational or research institution to conduct qualified aerospace product development. The term does not include capital costs and overhead, such as expenses for land, structures, or depreciable property.

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

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

(7) Credit may not be claimed for expenditures for which a credit is claimed under RCW 82.04.4452.

(8) This section expires July 1, 2040.

**Sec.**  RCW 82.04.4463 and 2013 3rd sp.s. c 2 s 10 are each amended to read as follows:

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

(2) The credit is equal to:

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

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

(C) Property taxes or leasehold excise taxes paid on, or with respect to, buildings constructed after June 30, 2008, the land upon which the buildings are located, or both, and used exclusively for aerospace product development, manufacturing tooling specifically designed for use in manufacturing commercial airplanes or their components, or in providing aerospace services, by persons not within the scope of (a)(i)(A) and (B) of this subsection (2) and are taxable under RCW 82.04.290(3), 82.04.260(11)(b), or 82.04.250(3); or

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

(b) An amount equal to:

(i)(A) Property taxes paid, by persons taxable under RCW 82.04.260(11)(a), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after December 1, 2003;

(B) Property taxes paid, by persons taxable under RCW 82.04.260(11)(b), on machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 and acquired after June 30, 2008; or

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

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

(A) The numerator of the fraction is the total taxable amount subject to the tax imposed under RCW 82.04.260(11) (a) or (b) on the applicable business activities of manufacturing commercial airplanes, components of such airplanes, or tooling specifically designed for use in the manufacturing of commercial airplanes or components of such airplanes.

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

(C) For purposes of both the numerator and denominator of the fraction, the total taxable amount refers to the total taxable amount required to be reported on the person's returns for the calendar year before the calendar year in which the credit under this section is earned. The department may provide for an alternative method for calculating the numerator in cases where the tax rate provided in RCW 82.04.260(11) for manufacturing was not in effect during the full calendar year before the calendar year in which the credit under this section is earned.

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

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

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

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

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

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

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

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

(6) This section expires July 1, 2040.

**Sec.**  RCW 82.04.448 and 2010 c 114 s 117 are each amended to read as follows:

(1) Subject to the limits and provisions of this section, a credit is authorized against the tax otherwise due under RCW 82.04.240(2) for persons engaged in the business of manufacturing semiconductor materials. For the purposes of this section "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2)(a) The credit under this section equals three thousand dollars for each employment position used in manufacturing production that takes place in a new building exempt from sales and use tax under RCW 82.08.965 and 82.12.965. A credit is earned for the calendar year a person fills a position. Additionally a credit is earned for each year the position is maintained over the subsequent consecutive years, up to eight years. Those positions that are not filled for the entire year are eligible for fifty percent of the credit if filled less than six months, and the entire credit if filled more than six months.

(b) To qualify for the credit, the manufacturing activity of the person must be conducted at a new building that qualifies for the exemption from sales and use tax under RCW 82.08.965 and 82.12.965.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation, during which time employment at the new building at the same site is increased, the person is eligible for credit for employment at the existing building and new building, with the limitation that the combined eligible employment not exceed full employment at the new building. "Full employment" has the same meaning as in RCW 82.08.965. The credit may not be earned until the commencement of commercial production, as that term is used in RCW 82.08.965.

(3) No application is necessary for the tax credit. The person is subject to all of the requirements of chapter 82.32 RCW. In no case may a credit earned during one calendar year be carried over to be credited against taxes incurred in a subsequent calendar year. No refunds may be granted for credits under this section.

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

(5) A person claiming the credit under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) Credits may be claimed after twelve years after the effective date of this act, for those buildings at which commercial production began before twelve years after the effective date of this act, subject to all of the eligibility criteria and limitations of this section.

(7) This section expires twelve years after the effective date of this act.

**Sec.**  RCW 82.04.4481 and 2015 3rd sp.s. c 6 s 503 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for all property taxes paid during the calendar year on property owned by a direct service industrial customer and reasonably necessary for the purposes of an aluminum smelter.

(2) A person claiming the credit under this section is subject to all the requirements of chapter 82.32 RCW. A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year, but may not be carried over a second year. Credits carried over must be applied to tax liability before new credits. No refunds may be granted for credits under this section.

(3) Credits may not be claimed under this section for property taxes levied for collection in 2027 and thereafter.

(4) A person claiming the credit provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

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

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

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

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

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

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

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

(c) Credit is authorized for new employees hired for new qualified employment positions created on or after January 1, 2004. New qualified employment positions filled by existing employees are eligible for the credit under this section only if the position vacated by the existing employee is filled by a new hire. A business that is a sole proprietorship without any employees is equivalent to one employee position and this type of business is eligible to receive credit for one position.

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

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

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

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

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

(9) A person claiming a tax credit under this section must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534.

(10) As used in this section:

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

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

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

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

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

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

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

**Sec.**  RCW 82.04.449 and 2012 c 46 s 3 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for participants in the Washington customized employment training program created in RCW 28B.67.020. The credit allowed under this section is equal to fifty percent of the value of a participant's payments to the employment training finance account created in RCW 28B.67.030. If a participant in the program does not meet the requirements of RCW 28B.67.020(2)(b)(ii), the participant must remit to the department the value of any credits taken plus interest. The credit earned by a participant in one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year. No credit may be allowed for repayment of training allowances received from the Washington customized employment training program on or after July 1, 2021.

(2) A person claiming the credit provided in this section must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534.

**Sec.**  RCW 82.08.805 and 2015 3rd sp.s. c 6 s 504 are each amended to read as follows:

(1) A person who has paid tax under RCW 82.08.020 for personal property used at an aluminum smelter, tangible personal property that will be incorporated as an ingredient or component of buildings or other structures at an aluminum smelter, or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. A person claiming an exemption must pay the tax and may then take a credit equal to the state share of retail sales tax paid under RCW 82.08.020. The person must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) For the purposes of this section, "aluminum smelter" has the same meaning as provided in RCW 82.04.217.

(3) A person claiming the tax preference provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2027.

**Sec.**  RCW 82.08.965 and 2010 c 114 s 123 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to charges made for labor and services rendered in respect to the constructing of new buildings used for the manufacturing of semiconductor materials, to sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing, or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b). The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(2) To be eligible under this section the manufacturer or processor for hire must meet the following requirements for an eight-year period, such period beginning the day the new building commences commercial production, or a portion of tax otherwise due will be immediately due and payable pursuant to subsection (3) of this section:

(a) The manufacturer or processor for hire must maintain at least seventy-five percent of full employment at the new building for which the exemption under this section is claimed.

(b) Before commencing commercial production at a new facility the manufacturer or processor for hire must meet with the department to review projected employment levels in the new buildings. The department, using information provided by the taxpayer, must make a determination of the number of positions that would be filled at full employment. This number must be used throughout the eight-year period to determine whether any tax is to be repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(c) In those situations where a production building in existence on the effective date of this section will be phased out of operation during which time employment at the new building at the same site is increased, the manufacturer or processor for hire must maintain seventy-five percent of full employment at the manufacturing site overall.

(d) No application is necessary for the tax exemption. The person is subject to all the requirements of chapter 82.32 RCW. A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) If the employment requirement is not met for any one calendar year, one-eighth of the exempt sales and use taxes will be due and payable by April 1st of the following year. The department must assess interest to the date the tax was imposed, but not penalties, on the taxes for which the person is not eligible.

(4) The exemption applies to new buildings, or parts of buildings, that are used exclusively in the manufacturing of semiconductor materials, including the storage of raw materials and finished product.

(5) For the purposes of this section:

(a) "Commencement of commercial production" is deemed to have occurred when the equipment and process qualifications in the new building are completed and production for sale has begun; and

(b) "Full employment" is the number of positions required for full capacity production at the new building, for positions such as line workers, engineers, and technicians.

(c) "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(6) No exemption may be taken after twelve years after the effective date of this act, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(7) This section expires twelve years after the effective date of this act.

**Sec.**  RCW 82.08.9651 and 2014 c 97 s 405 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2)((~~(a) Except as provided under (b) of this subsection (2),~~)) A person claiming the exemption under this section must file a complete annual ((~~survey with the department under RCW 82.32.585.~~

~~(b) A person claiming the exemption under this section and who is required to file a complete annual report with the department under RCW 82.32.534 as a result of claiming the tax preference provided by RCW 82.04.2404 is not also required to file a complete annual survey under RCW 82.32.585~~)) tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) This section expires December 1, 2018.

**Sec.**  RCW 82.08.970 and 2010 c 114 s 125 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires twelve years after the effective date of this act.

**Sec.**  RCW 82.08.980 and 2013 3rd sp.s. c 2 s 3 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) Charges, for labor and services rendered in respect to the constructing of new buildings, made to (i) a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes or (ii) a port district, political subdivision, or municipal corporation, to be leased to a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes;

(b) Sales of tangible personal property that will be incorporated as an ingredient or component of such buildings during the course of the constructing; or

(c) Charges made for labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) No application is necessary for the tax exemption in this section. However, in order to qualify under this section before starting construction, the port district, political subdivision, or municipal corporation must have entered into an agreement with the manufacturer to build such a facility. A person claiming the exemption under this section is subject to all the requirements of chapter 82.32 RCW. In addition, the person must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) The exemption in this section applies to buildings or parts of buildings, including buildings or parts of buildings used for the storage of raw materials or finished product, that are used primarily in the manufacturing of any one or more of the following products:

(a) Commercial airplanes;

(b) Fuselages of commercial airplanes; or

(c) Wings of commercial airplanes.

(5) For the purposes of this section, "commercial airplane" has the meaning given in RCW 82.32.550.

(6) This section expires July 1, 2040.

**Sec.**  RCW 82.08.986 and 2015 3rd sp.s. c 6 s 302 are each amended to read as follows:

(1) An exemption from the tax imposed by RCW 82.08.020 is provided for sales to qualifying businesses and to qualifying tenants of eligible server equipment to be installed, without intervening use, in an eligible computer data center, and to charges made for labor and services rendered in respect to installing eligible server equipment. Until January 1, 2026, the exemption also applies to sales to qualifying businesses and to qualifying tenants of eligible power infrastructure, including labor and services rendered in respect to constructing, installing, repairing, altering, or improving eligible power infrastructure.

(2)(a) In order to claim the exemption under this section, a qualifying business or a qualifying tenant must submit an application to the department for an exemption certificate. The application must include the information necessary, as required by the department, to determine that a business or tenant qualifies for the exemption under this section. The department must issue exemption certificates to qualifying businesses and qualifying tenants. The department may assign a unique identification number to each exemption certificate issued under this section.

(b) A qualifying business or a qualifying tenant claiming the exemption under this section must present the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(c) With respect to computer data centers for which the commencement of construction occurs after July 1, 2015, but before July 1, 2019, the exemption provided in this section is limited to no more than eight computer data centers, with total eligible data centers provided under this section limited to twelve from July 1, 2015, through July 1, 2025. Tenants of qualified data centers do not constitute additional data centers under the limit. The exemption is available on a first-in-time basis based on the date the application required under this section is received by the department. Exemption certificates expire two years after the date of issuance, unless construction has been commenced.

(3)(a) Within six years of the date that the department issued an exemption certificate under this section to a qualifying business or a qualifying tenant with respect to an eligible computer data center, the qualifying business or qualifying tenant must establish that net employment at the eligible computer data center has increased by a minimum of:

(i) Thirty-five family wage employment positions; or

(ii) Three family wage employment positions for each twenty thousand square feet of space or less that is newly dedicated to housing working servers at the eligible computer data center. For qualifying tenants, the number of family wage employment positions that must be increased under this subsection (3)(a)(ii) is based only on the space occupied by the qualifying tenant in the eligible computer data center.

(b) In calculating the net increase in family wage employment positions:

(i) The owner of an eligible computer data center, in addition to its own net increase in family wage employment positions, may include:

(A) The net increase in family wage employment positions employed by qualifying tenants; and

(B) The net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(ii)(A) Qualifying tenants, in addition to their own net increase in family wage employment positions, may include:

(I) A portion of the net increase in family wage employment positions employed by the owner; and

(II) A portion of the net increase in family wage employment positions described in (c)(ii)(B) of this subsection (3).

(B) The portion of the net increase in family wage employment positions to be counted under this subsection (3)(b)(ii) by each qualifying tenant must be in proportion to the amount of space in the eligible computer data center occupied by the qualifying tenant compared to the total amount of space in the eligible computer data center occupied by all qualifying tenants.

(c)(i) For purposes of this subsection, family wage employment positions are new permanent employment positions requiring forty hours of weekly work, or their equivalent, on a full-time basis at the eligible computer data center and receiving a wage equivalent to or greater than one hundred fifty percent of the per capita personal income of the county in which the qualified project is located. An employment position may not be counted as a family wage employment position unless the employment position is entitled to health insurance coverage provided by the employer of the employment position. For purposes of this subsection (3)(c), "new permanent employment position" means an employment position that did not exist or that had not previously been filled as of the date that the department issued an exemption certificate to the owner or qualifying tenant of an eligible computer data center, as the case may be.

(ii)(A) Family wage employment positions include positions filled by employees of the owner of the eligible computer data center and by employees of qualifying tenants.

(B) Family wage employment positions also include individuals performing work at an eligible computer data center as an independent contractor hired by the owner of the eligible computer data center or as an employee of an independent contractor hired by the owner of the eligible computer data center, if the work is necessary for the operation of the computer data center, such as security and building maintenance, and provided that all of the requirements in (c)(i) of this subsection (3) are met.

(d) All previously exempted sales and use taxes are immediately due and payable for a qualifying business or qualifying tenant that does not meet the requirements of this subsection.

(4) A qualifying business or a qualifying tenant claiming an exemption under this section or RCW 82.12.986 must complete an annual tax performance report with the department as required under RCW 82.32.534.

(5)(a) The exemption provided in this section does not apply to:

(i) Any person who has received the benefit of the deferral program under chapter 82.60 RCW on: (A) The construction, renovation, or expansion of a structure or structures used as a computer data center; or (B) machinery or equipment used in a computer data center; and

(ii) Any person affiliated with a person within the scope of (a)(i) of this subsection (5).

(b) If a person claims an exemption under this section and subsequently receives the benefit of the deferral program under chapter 82.60 RCW on either the construction, renovation, or expansion of a structure or structures used as a computer data center or machinery or equipment used in a computer data center, the person must repay the amount of taxes exempted under this section. Interest as provided in chapter 82.32 RCW applies to amounts due under this section until paid in full.

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

(a) "Affiliated" means that one person has a direct or indirect ownership interest of at least twenty percent in another person.

(b) "Building" means a fully enclosed structure with a weather resistant exterior wall envelope or concrete or masonry walls designed in accordance with the requirements for structures under chapter 19.27 RCW. This definition of "building" only applies to computer data centers for which commencement of construction occurs on or after July 1, 2015.

(c)(i) "Computer data center" means a facility comprised of one or more buildings, which may be comprised of multiple businesses, constructed or refurbished specifically, and used primarily, to house working servers, where the facility has the following characteristics: (A) Uninterruptible power supplies, generator backup power, or both; (B) sophisticated fire suppression and prevention systems; and (C) enhanced physical security, such as: Restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring passcodes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

(ii) For a computer data center comprised of multiple buildings, each separate building constructed or refurbished specifically, and used primarily, to house working servers is considered a computer data center if it has all of the characteristics listed in (c)(i)(A) through (C) of this subsection (6).

(iii) A facility comprised of one building or more than one building must have a combined square footage of at least one hundred thousand square feet.

(d) "Electronic data storage and data management services" include, but are not limited to: Providing data storage and backup services, providing computer processing power, hosting enterprise software applications, and hosting web sites. The term also includes providing services such as email, web browsing and searching, media applications, and other online services, regardless of whether a charge is made for such services.

(e)(i) "Eligible computer data center" means a computer data center:

(A) Located in a rural county as defined in RCW 82.14.370;

(B) Having at least twenty thousand square feet dedicated to housing working servers, where the server space has not previously been dedicated to housing working servers; and

(C) For which the commencement of construction occurs:

(I) After March 31, 2010, and before July 1, 2011;

(II) After March 31, 2012, and before July 1, 2015; or

(III) After June 30, 2015, and before July 1, 2025.

(ii) For purposes of this section, "commencement of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for construction of the computer data center. The construction of a computer data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space. "Commencement of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of a computer data center.

(iii) With respect to facilities in existence on April 1, 2010, that are expanded, renovated, or otherwise improved after March 31, 2010, or facilities in existence on April 1, 2012, that are expanded, renovated, or otherwise improved after March 31, 2012, or facilities in existence on July 1, 2015, that are expanded, renovated, or otherwise improved after June 30, 2015, an eligible computer data center includes only the portion of the computer data center meeting the requirements in (e)(i)(B) of this subsection (6).

(f) "Eligible power infrastructure" means all fixtures and equipment owned by a qualifying business or qualifying tenant and necessary for the transformation, distribution, or management of electricity that is required to operate eligible server equipment within an eligible computer data center. The term includes generators; wiring; cogeneration equipment; and associated fixtures and equipment, such as electrical switches, batteries, and distribution, testing, and monitoring equipment. The term does not include substations.

(g) "Eligible server equipment" means:

(i) For a qualifying business whose computer data center qualifies as an eligible computer data center under (e)(i)(C)(I) of this subsection (6), the original server equipment installed in an eligible computer data center on or after April 1, 2010, and before January 1, 2026, and replacement server equipment. For purposes of this subsection (6)(g)(i), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2018.

(ii) For a qualifying business whose computer data center qualifies as an eligible computer data center under (e)(i)(C)(II) of this subsection (6), "eligible server equipment" means the original server equipment installed in an eligible computer data center on or after April 1, 2012, and before January 1, 2026, and replacement server equipment. For purposes of this subsection (6)(g)(ii), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use before April 1, 2024.

(iii)(A) For a qualifying business whose computer data center qualifies as an eligible computer data center under (e)(i)(C)(III) of this subsection (6), "eligible server equipment" means the original server equipment installed in a building within an eligible computer data center on or after July 1, 2015, and replacement server equipment. Server equipment installed in movable or fixed stand-alone, prefabricated, or modular units, including intermodal shipping containers, is not "directly installed in a building." For purposes of this subsection (6)(g)(iii)(A), "replacement server equipment" means server equipment that replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986; and

(B) Is installed and put into regular use no later than twelve years after the date of the certificate of occupancy.

(iv) For a qualifying tenant who leases space within an eligible computer data center, "eligible server equipment" means the original server equipment installed within the space it leases from an eligible computer data center on or after April 1, 2010, and before January 1, 2026, and replacement server equipment. For purposes of this subsection (6)(g)(iv), "replacement server equipment" means server equipment that:

(A) Replaces existing server equipment, if the sale or use of the server equipment to be replaced qualified for an exemption under this section or RCW 82.12.986;

(B) Is installed and put into regular use before April 1, 2024; and

(C) For tenants leasing space in an eligible computer data center built after July 1, 2015, is installed and put into regular use no later than twelve years after the date of the certificate of occupancy.

(h) "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner of an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state.

(i) "Qualifying tenant" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that leases space from a qualifying business within an eligible computer data center. The term does not include the state or federal government or any of their departments, agencies, and institutions; tribal governments; political subdivisions of this state; or any municipal, quasi-municipal, public, or other corporation created by the state or federal government, tribal government, municipality, or political subdivision of the state. The term also does not include a lessee of space in an eligible computer data center under (e)(i)(C)(I) of this subsection (6), if the lessee and lessor are affiliated and:

(i) That space will be used by the lessee to house server equipment that replaces server equipment previously installed and operated in that eligible computer data center by the lessor or another person affiliated with the lessee; or

(ii) Prior to May 2, 2012, the primary use of the server equipment installed in that eligible computer data center was to provide electronic data storage and data management services for the business purposes of either the lessor, persons affiliated with the lessor, or both.

(j) "Server equipment" means the computer hardware located in an eligible computer data center and used exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for clients of the owner or lessee of the computer data center, or both. "Server equipment" also includes computer software necessary to operate the computer hardware. "Server equipment" does not include personal computers, the racks upon which the server equipment is installed, and computer peripherals such as keyboards, monitors, printers, and mice.

**Sec.**  RCW 82.12.022 and 2015 3rd sp.s. c 6 s 506 are each amended to read as follows:

(1) A use tax is levied on every person in this state for the privilege of using natural gas or manufactured gas, including compressed natural gas and liquefied natural gas, within this state as a consumer.

(2) The tax must be levied and collected in an amount equal to the value of the article used by the taxpayer multiplied by the rate in effect for the public utility tax on gas distribution businesses under RCW 82.16.020. The "value of the article used" does not include any amounts that are paid for the hire or use of a gas distribution business as defined in RCW 82.16.010(2) in transporting the gas subject to tax under this subsection if those amounts are subject to tax under that chapter.

(3) The tax levied in this section does not apply to the use of natural or manufactured gas delivered to the consumer by other means than through a pipeline.

(4) The tax levied in this section does not apply to the use of natural or manufactured gas if the person who sold the gas to the consumer has paid a tax under RCW 82.16.020 with respect to the gas for which exemption is sought under this subsection.

(5)(a) The tax levied in this section does not apply to the use of natural or manufactured gas by an aluminum smelter as that term is defined in RCW 82.04.217 before January 1, 2027.

(b) A person claiming the exemption provided in this subsection (5) must file a complete annual tax performance report with the department under RCW 82.32.534.

(6) The tax imposed by this section does not apply to the use of natural gas, compressed natural gas, or liquefied natural gas, if the consumer uses the gas for transportation fuel as defined in RCW 82.16.310.

(7) There is a credit against the tax levied under this section in an amount equal to any tax paid by:

(a) The person who sold the gas to the consumer when that tax is a gross receipts tax similar to that imposed pursuant to RCW 82.16.020 by another state with respect to the gas for which a credit is sought under this subsection; or

(b) The person consuming the gas upon which a use tax similar to the tax imposed by this section was paid to another state with respect to the gas for which a credit is sought under this subsection.

(8) The use tax imposed in this section must be paid by the consumer to the department.

(9) There is imposed a reporting requirement on the person who delivered the gas to the consumer to make a quarterly report to the department. Such report must contain the volume of gas delivered, name of the consumer to whom delivered, and such other information as the department may require by rule.

(10) The department may adopt rules under chapter 34.05 RCW for the administration and enforcement of sections 1 through 6, chapter 384, Laws of 1989.

**Sec.**  RCW 82.12.025651 and 2011 c 23 s 5 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use by a public research institution of machinery and equipment used primarily in a research and development operation, or to the use of labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

(2) The definitions in RCW 82.08.025651 apply to this section.

(3) A public research institution receiving the benefit of the exemption provided in this section must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534.

**Sec.**  RCW 82.12.805 and 2015 3rd sp.s. c 6 s 505 are each amended to read as follows:

(1) A person who is subject to tax under RCW 82.12.020 for personal property used at an aluminum smelter, or for tangible personal property that will be incorporated as an ingredient or component of buildings or other structures at an aluminum smelter, or for labor and services rendered with respect to such buildings, structures, or personal property, is eligible for an exemption from the state share of the tax in the form of a credit, as provided in this section. The amount of the credit equals the state share of use tax computed to be due under RCW 82.12.020. The person must submit information, in a form and manner prescribed by the department, specifying the amount of qualifying purchases or acquisitions for which the exemption is claimed and the amount of exempted tax.

(2) For the purposes of this section, "aluminum smelter" has the same meaning as provided in RCW 82.04.217.

(3) A person reporting under the tax rate provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) Credits may not be claimed under this section for taxable events occurring on or after January 1, 2027.

**Sec.**  RCW 82.12.965 and 2010 c 114 s 129 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of tangible personal property that will be incorporated as an ingredient or component of new buildings used for the manufacturing of semiconductor materials during the course of constructing such buildings or to labor and services rendered in respect to installing, during the course of constructing, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The eligibility requirements, conditions, and definitions in RCW 82.08.965 apply to this section, including the filing of a complete annual tax performance report with the department under RCW 82.32.534.

(3) No exemption may be taken twelve years after the effective date of this act, however all of the eligibility criteria and limitations are applicable to any exemptions claimed before that date.

(4) This section expires twelve years after the effective date of this act.

**Sec.**  RCW 82.12.9651 and 2014 c 97 s 406 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2)((~~(a) Except as provided under (b) of this subsection (2),~~)) A person claiming the exemption under this section must file a complete annual ((~~survey with the department under RCW 82.32.585.~~

~~(b) A person claiming the exemption under this section and who is required to file a complete annual report with the department under RCW 82.32.534 as a result of claiming the tax preference provided by RCW 82.04.2404 is not also required to file a complete annual survey under RCW 82.32.585~~)) tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) This section expires December 1, 2018.

**Sec.**  RCW 82.12.970 and 2010 c 114 s 131 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the manufacturing of semiconductor materials. This exemption is limited to gases and chemicals used in the manufacturing process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the manufacturing process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534. No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(3) This section expires twelve years after the effective date of this act.

**Sec.**  RCW 82.12.980 and 2013 3rd sp.s. c 2 s 4 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of:

(a) Tangible personal property that will be incorporated as an ingredient or component in constructing new buildings for (i) a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes or (ii) a port district, political subdivision, or municipal corporation, to be leased to a manufacturer engaged in the manufacturing of commercial airplanes or the fuselages or wings of commercial airplanes; or

(b) Labor and services rendered in respect to installing, during the course of constructing such buildings, building fixtures not otherwise eligible for the exemption under RCW 82.08.02565(2)(b).

(2) The eligibility requirements, conditions, and definitions in RCW 82.08.980 apply to this section, including the filing of a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires July 1, 2040.

**Sec.**  RCW 82.16.0421 and 2010 c 114 s 133 are each amended to read as follows:

(1) ((~~For the purposes of this section:~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chlor-alkali electrolytic processing business" means a person who is engaged in a business that uses more than ten average megawatts of electricity per month in a chlor-alkali electrolytic process to split the electrochemical bonds of sodium chloride and water to make chlorine and sodium hydroxide. A "chlor-alkali electrolytic processing business" does not include direct service industrial customers or their subsidiaries that contract for the purchase of power from the Bonneville power administration as of June 10, 2004.

(b) "Sodium chlorate electrolytic processing business" means a person who is engaged in a business that uses more than ten average megawatts of electricity per month in a sodium chlorate electrolytic process to split the electrochemical bonds of sodium chloride and water to make sodium chlorate and hydrogen. A "sodium chlorate electrolytic processing business" does not include direct service industrial customers or their subsidiaries that contract for the purchase of power from the Bonneville power administration as of June 10, 2004.

(2) Effective July 1, 2004, the tax levied under this chapter does not apply to sales of electricity made by a light and power business to a chlor-alkali electrolytic processing business or a sodium chlorate electrolytic processing business for the electrolytic process if the contract for sale of electricity to the business contains the following terms:

(a) The electricity to be used in the electrolytic process is separately metered from the electricity used for general operations of the business;

(b) The price charged for the electricity used in the electrolytic process will be reduced by an amount equal to the tax exemption available to the light and power business under this section; and

(c) Disallowance of all or part of the exemption under this section is a breach of contract and the damages to be paid by the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business are the amount of the tax exemption disallowed.

(3) The exemption provided for in this section does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the electrolytic process.

(4) In order to claim an exemption under this section, the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business must provide the light and power business with an exemption certificate in a form and manner prescribed by the department.

(5) A person receiving the benefit of the exemption provided in this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(6)(a) This section does not apply to sales of electricity made after December 31, 2018.

(b) This section expires June 30, 2019.

**Sec.**  RCW 82.29A.137 and 2013 3rd sp.s. c 2 s 13 are each amended to read as follows:

(1) All leasehold interests in port district facilities exempt from tax under RCW 82.08.980 or 82.12.980 and used by a manufacturer engaged in the manufacturing of superefficient airplanes, as defined in RCW 82.32.550, are exempt from tax under this chapter. A person claiming the credit under RCW 82.04.4463 is not eligible for the exemption under this section.

(2) In addition to all other requirements under this title, a person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) This section expires July 1, 2040.

**Sec.**  RCW 82.60.070 and 2010 1st sp.s. c 16 s 9 are each amended to read as follows:

(1)(a) Each recipient of a deferral of taxes granted under this chapter must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.60.025, the lessee must file a complete annual ((~~survey~~)) tax performance report, and the applicant is not required to file a complete annual ((~~survey~~)) tax performance report.

(b) The department must use the information reported on the annual ((~~survey~~)) tax performance report required by this section to study the tax deferral program authorized under this chapter. The department must report to the legislature by December 1, ((~~2019~~)) 2018. The report must measure the effect of the program on job creation, the number of jobs created for residents of eligible areas, company growth, ((~~the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state,~~)) and such other factors as the department selects.

(2) Except as provided in RCW 82.60.063, if, on the basis of a ((~~survey under RCW 82.32.585~~)) tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is not eligible for tax deferral under this chapter, the amount of deferred taxes outstanding for the project, according to the repayment schedule in RCW 82.60.060, is immediately due. For purposes of this subsection (2), the repayment schedule in RCW 82.60.060 is tolled during the period of time that a taxpayer is receiving relief from repayment of deferred taxes under RCW 82.60.063.

(3) A recipient who must repay deferred taxes under subsection (2) of this section because the department has found that an investment project is not eligible for tax deferral under this chapter is no longer required to file annual ((~~surveys under RCW 82.32.585~~)) tax performance reports under RCW 82.32.534 beginning on the date an investment project is used for nonqualifying purposes.

(4) Notwithstanding any other provision of this section or RCW ((~~82.32.585~~)) 82.32.534, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**Sec.**  RCW 82.63.020 and 2010 c 114 s 140 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter must be made before initiation of construction of, or acquisition of equipment or machinery for the investment project. In the case of an investment project involving multiple qualified buildings, applications must be made for, and before the initiation of construction of, each qualified building. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days.

(2) Each recipient of a deferral of taxes under this chapter must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.63.010(7), the lessee must file a complete annual ((~~survey~~)) tax performance report, and the applicant is not required to file the annual ((~~survey~~)) tax performance report.

(3) ((~~The department must use the information reported on the annual survey required by this section to study the tax deferral program authorized under this chapter. The department must report to the legislature by December 1, 2009, and December 1, 2013. The reports must measure the effect of the program on job creation, the number of jobs created for Washington residents, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.~~

~~(4)~~)) A recipient who must repay deferred taxes under RCW 82.63.045 because the department has found that an investment project is used for purposes other than research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology is no longer required to file annual ((~~surveys under RCW 82.32.585~~)) tax performance reports under RCW 82.32.534 beginning on the date an investment project is used for nonqualifying purposes.

**Sec.**  RCW 82.63.045 and 2010 c 114 s 141 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW ((~~82.32.585~~)) 82.32.534, taxes deferred under this chapter need not be repaid.

(2)(a) If, on the basis of the ((~~survey under RCW 82.32.585~~)) tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is used for purposes other than qualified research and development or pilot scale manufacturing at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes is immediately due according to the following schedule:

|  |  |
| --- | --- |
| Year in which use occurs | % of deferred taxes due |
| 1 | 100% |
| 2 | 87.5% |
| 3 | 75% |
| 4 | 62.5% |
| 5 | 50% |
| 6 | 37.5% |
| 7 | 25% |
| 8 | 12.5% |

(b) If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.63.010(7), the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(3)(a) Notwithstanding subsection (2) of this section, in the case of an investment project consisting of multiple qualified buildings, the lessee is solely liable for payment of any deferred tax determined by the department to be due and payable under this section beginning on the date the department certifies that the project is operationally complete.

(b) This subsection does not relieve the lessors of its obligation to the lessee under RCW 82.63.010(7) to pass the economic benefit of the deferral to the lessee.

(4) The department must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of deferral. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(5) Notwithstanding subsection (2) of this section or RCW ((~~82.32.585~~)) 82.32.534, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**Sec.**  RCW 82.74.040 and 2010 c 114 s 142 are each amended to read as follows:

(1) Each recipient of a deferral of taxes granted under this chapter must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010(6), the lessee must file a complete annual ((~~survey~~)) tax performance report, and the applicant is not required to file the annual ((~~survey~~)) tax performance report.

(2) A recipient who must repay deferred taxes under RCW 82.74.050(2) because the department has found that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development is no longer required to file annual ((~~surveys under RCW 82.32.585~~)) tax performance reports under RCW 82.32.534 beginning on the date an investment project is used for nonqualifying purposes.

**Sec.**  RCW 82.74.050 and 2010 c 114 s 143 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW ((~~82.32.585~~)) 82.32.534, taxes deferred under this chapter need not be repaid.

(2)(a) If, on the basis of the ((~~survey under RCW 82.32.585~~)) tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes is immediately due according to the following schedule:

|  |  |
| --- | --- |
| Year in which nonqualifying use occurs | % of deferred taxes due |
| 1 | 100% |
| 2 | 87.5% |
| 3 | 75% |
| 4 | 62.5% |
| 5 | 50% |
| 6 | 37.5% |
| 7 | 25% |
| 8 | 12.5% |

(b) If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010(6), the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(3) The department must assess interest, but not penalties, on the deferred taxes under subsection (2) of this section. The interest must be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date of deferral, and will accrue until the deferred taxes are repaid. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(4) Notwithstanding subsection (2) of this section or RCW ((~~82.32.585~~)) 82.32.534, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**Sec.**  RCW 82.75.040 and 2010 c 114 s 147 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW ((~~82.32.585~~)) 82.32.534, taxes deferred under this chapter need not be repaid.

(2)(a) If, on the basis of the ((~~survey under RCW 82.32.585~~)) tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is used for purposes other than qualified biotechnology product manufacturing or medical device manufacturing activities at any time during the calendar year in which the eligible investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes is immediately due and payable according to the following schedule:

|  |  |
| --- | --- |
| Year in which use occurs | % of deferred taxes due |
| 1 | 100% |
| 2 | 87.5% |
| 3 | 75% |
| 4 | 62.5% |
| 5 | 50% |
| 6 | 37.5% |
| 7 | 25% |
| 8 | 12.5% |

(b) If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.75.010, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(3) For a violation of subsection (2)(a) of this section, the department must assess interest at the rate provided for delinquent taxes, but not penalties, retroactively to the date of deferral. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(4) Notwithstanding subsection (2) of this section or RCW ((~~82.32.585~~)) 82.32.534, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

**Sec.**  RCW 82.75.070 and 2010 c 114 s 144 are each amended to read as follows:

(1) Each recipient of a deferral of taxes granted under this chapter must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.75.010(5), the lessee must file a complete annual ((~~survey~~)) tax performance report, and the applicant is not required to file the annual ((~~survey~~)) tax performance report.

(2) A recipient who must repay deferred taxes under RCW 82.75.040(2) because the department has found that an investment project is used for purposes other than qualified biotechnology product manufacturing or medical device manufacturing activities is no longer required to file annual ((~~surveys under RCW 82.32.585~~)) tax performance reports under RCW 82.32.534 beginning on the date an investment project is used for nonqualifying purposes.

**Sec.**  RCW 82.82.020 and 2010 c 114 s 148 are each amended to read as follows:

(1) Application for deferral of taxes under this chapter can be made at any time prior to completion of construction of a qualified building or buildings, but tax liability incurred prior to the department's receipt of an application may not be deferred. The application must be made to the department in a form and manner prescribed by the department. The application must contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department must rule on the application within sixty days.

(2) Applications for deferral of taxes under this section may not be made after December 31, 2020.

(3) Each recipient of a deferral of taxes under this chapter must file a complete annual ((~~survey~~)) tax performance report with the department under RCW ((~~82.32.585~~)) 82.32.534. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.82.010(5), the lessee must file a complete annual ((~~survey~~)) tax performance report, and the applicant is not required to file the annual ((~~survey~~)) tax performance report.

(4) A recipient who must repay deferred taxes under RCW 82.82.040 because the department has found that an investment project is no longer an eligible investment project is no longer required to file annual ((~~surveys under RCW 82.32.585~~)) tax performance reports under RCW 82.32.534 beginning on the date an investment project is used for nonqualifying purposes.

**Sec.**  RCW 82.82.040 and 2010 c 114 s 149 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW ((~~82.32.585~~)) 82.32.534, taxes deferred under this chapter need not be repaid.

(2)(a) If, on the basis of the ((~~survey under RCW 82.32.585~~)) tax performance report under RCW 82.32.534 or other information, the department finds that an investment project is no longer an "eligible investment project" under RCW 82.82.010 at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes are immediately due according to the following schedule:

|  |  |
| --- | --- |
| Year in which use occurs | % of deferred taxes due |
| 1 | 100% |
| 2 | 87.5% |
| 3 | 75% |
| 4 | 62.5% |
| 5 | 50% |
| 6 | 37.5% |
| 7 | 25% |
| 8 | 12.5% |

(b) If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.82.010(5), the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(3) The department must assess interest at the rate provided for delinquent taxes under chapter 82.32 RCW, but not penalties, retroactively to the date of deferral. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

**Sec.**  RCW 84.36.645 and 2010 c 114 s 150 are each amended to read as follows:

(1) Machinery and equipment exempt under RCW 82.08.02565 or 82.12.02565 used in manufacturing semiconductor materials at a building exempt from sales and use tax and in compliance with the employment requirement under RCW 82.08.965 and 82.12.965 are exempt from property taxation. "Semiconductor materials" has the same meaning as provided in RCW 82.04.240(2).

(2) A person seeking this exemption must make application to the county assessor, on forms prescribed by the department.

(3) A person claiming an exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(4) This section is effective for taxes levied for collection one year after the effective date of this act and thereafter.

(5) This section expires December 31st of the year occurring twelve years after the effective date of this act, for taxes levied for collection in the following year.

**Sec.**  RCW 84.36.655 and 2013 3rd sp.s. c 2 s 14 are each amended to read as follows:

(1) Effective January 1, 2005, all buildings, machinery, equipment, and other personal property of a lessee of a port district eligible under RCW 82.08.980 and 82.12.980, used exclusively in manufacturing superefficient airplanes, are exempt from property taxation. A person taking the credit under RCW 82.04.4463 is not eligible for the exemption under this section. For the purposes of this section, "superefficient airplane" and "component" have the meanings given in RCW 82.32.550.

(2) In addition to all other requirements under this title, a person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) Claims for exemption authorized by this section must be filed with the county assessor on forms prescribed by the department and furnished by the assessor. The assessor must verify and approve claims as the assessor determines to be justified and in accordance with this section. No claims may be filed after December 31, 2039. The department may adopt rules, under the provisions of chapter 34.05 RCW, as necessary to properly administer this section.

(4) This section applies to taxes levied for collection in 2006 and thereafter.

(5) This section expires July 1, 2040.

**Sec.**  RCW 82.32.790 and 2010 c 114 s 201 and 2010 c 106 s 401 are each reenacted and amended to read as follows:

(1)(a) Sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter . . ., Laws of 2017 (sections 9, 13, 17, 22, 24, 30, 32, and 45 of this act) section 206, chapter 106, Laws of 2010, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010, section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws of 2003 are contingent upon the siting and commercial operation of a significant semiconductor microchip fabrication facility in the state of Washington.

(b) For the purposes of this section:

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

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

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

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

(3)(a) The department of revenue must provide notice of the effective date of sections 9, 13, 17, 22, 24, 30, 32, and 45, chapter . . ., Laws of 2017 (sections 9, 13, 17, 22, 24, 30, 32, and 45 of this act), section 206, chapter 106, Laws of 2010, sections 104, 110, 117, 123, 125, 129, 131, and 150, chapter 114, Laws of 2010((~~[,]~~)), section 3, chapter 461, Laws of 2009, section 7, chapter 300, Laws of 2006, and section 4, chapter 149, Laws of 2003 to affected taxpayers, the legislature, and others as deemed appropriate by the department.

(b) If, after making a determination that a contract has been signed and chapter 149, Laws of 2003 is effective, the department discovers that commencement of commercial production did not take place within three years of the date the contract was signed, the department must make a determination that chapter 149, Laws of 2003 is no longer effective, and all taxes that would have been otherwise due are deemed deferred taxes and are immediately assessed and payable from any person reporting tax under RCW 82.04.240(2) or claiming an exemption or credit under section 2 or 5 through 10, chapter 149, Laws of 2003. The department is not authorized to make a second determination regarding the effective date of chapter 149, Laws of 2003.

NEW SECTION. **Sec.**  This act takes effect January 1, 2018.

**--- END ---**