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HOUSE BILL 2947

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State of Washington

65th Legislature

2018 Regular Session

By Representatives Chapman, Maycumber, Haler, Schmick, Steele, and Tharinger

Read first time 01/29/18. Referred to Committee on Finance.

1 AN ACT Relating to providing business and occupation tax relief  
2 to rural manufacturers; amending RCW 82.04.240, 82.04.240, 82.04.440,  
3 82.04.433, and 82.32.790; creating a new section; providing an  
4 effective date; providing a contingent effective date; providing an  
5 expiration date; and providing contingent expiration dates.

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

7 NEW SECTION. **Sec. 1.** (1) This section is the tax preference  
8 performance statement section for sections 3 and 4, chapter . . . ,  
9 Laws of 2018 (sections 3 and 4 of this act). This performance  
10 statement is only intended to be used for subsequent evaluation of  
11 the tax preference. It is not intended to create a private right of  
12 action by any party or be used to determine eligibility for  
13 preferential tax treatment.

14 (2) The legislature categorizes the tax preference as one  
15 intended to provide relief to manufacturers located in rural  
16 counties, as indicated in RCW 82.32.808(2)(e).

17 (3) It is the legislature specific public policy objective to  
18 provide business and occupation tax relief to businesses located in  
19 rural counties, both within and without the state.

20 (4) If a review finds that the unemployment rate in rural  
21 counties, as defined in RCW 82.14.370, is higher than the

1 unemployment rate of the Seattle-Bremerton-Tacoma combined  
2 metropolitan statistical area, as defined by the United States  
3 department of labor, then the legislature intends for the legislative  
4 auditor to recommend extending the expiration date of the tax  
5 preference.

6 (5) In order to obtain the data necessary to perform the review  
7 in subsection (4) of this section, the joint legislative audit and  
8 review committee may refer to any available data source, and the  
9 employment security department is directed to cooperate with any  
10 requests for data pursuant to facilitating the review authorized in  
11 this section.

12 **Sec. 2.** RCW 82.04.240 and 2004 c 24 s 4 are each amended to read  
13 as follows:

14 (1)(a) Upon every eligible manufacturer engaging within this  
15 state in the business of manufacturing in an eligible area, and every  
16 eligible manufacturer engaging within this state in the business of  
17 making sales, at retail or wholesale, of products manufactured by the  
18 eligible manufacturer in an eligible area, as to such persons the  
19 amount of tax with respect to such business is, in the case of  
20 manufacturers, equal to the value of the product manufactured and the  
21 gross proceeds of sales of the product manufactured, or in the case  
22 of processors for hire, equal to the gross income of the business,  
23 multiplied by the rate of:

- 24 (i) 0.484 percent through December 31, 2019;
- 25 (ii) 0.4356 percent from January 1, 2020, through December 31,  
26 2020;
- 27 (iii) 0.3872 percent from January 1, 2021, through December 31,  
28 2021;
- 29 (iv) 0.3388 percent from January 1, 2022, through December 31,  
30 2022; and
- 31 (v) 0.2904 percent from January 1, 2023, and thereafter.

32 (b) The definitions in this subsection apply throughout this  
33 subsection (1) unless the context clearly requires otherwise.

34 (i) "Eligible area" means a county or a statistically equivalent  
35 entity, as defined by the United States census bureau, located within  
36 or without the state, that:

- 37 (A) Has a population density of less than one hundred persons per  
38 square mile; or
- 39 (B) Is smaller than two hundred twenty-five square miles.

1 (ii) "Eligible manufacturer" means a manufacturer or processor  
2 for hire, engaged in manufacturing within an eligible area.

3 (iii) "Manufacturing" means the same as "to manufacture" as  
4 defined in RCW 82.04.120.

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

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

14 **Sec. 3.** RCW 82.04.240 and 2017 3rd sp.s. c 37 s 518 are each  
15 amended to read as follows:

16 (1) Upon every eligible manufacturer engaging within this state  
17 in the business of manufacturing in an eligible area, and every  
18 eligible manufacturer engaging within this state in the business of  
19 making sales, at retail or wholesale, of products manufactured by the  
20 eligible manufacturer in an eligible area, as to such persons the  
21 amount of tax with respect to such business is, in the case of  
22 manufacturers, equal to the value of the product manufactured and the  
23 gross proceeds of sales of the product manufactured, or in the case  
24 of processors for hire, equal to the gross income of the business,  
25 multiplied by the rate of:

26 (i) 0.484 percent through December 31, 2019;

27 (ii) 0.4356 percent from January 1, 2020, through December 31,  
28 2020;

29 (iii) 0.3872 percent from January 1, 2021, through December 31,  
30 2021;

31 (iv) 0.3388 percent from January 1, 2022, through December 31,  
32 2022; and

33 (v) 0.2904 percent from January 1, 2023, and thereafter.

34 (b) The definitions in this subsection apply throughout this  
35 subsection (1) unless the context clearly requires otherwise.

36 (i) "Eligible area" means a county or a statistically equivalent  
37 entity, as defined by the United States census bureau, located within  
38 or without the state, that:

1 (A) Has a population density of less than one hundred persons per  
2 square mile; or

3 (B) Is smaller than two hundred twenty-five square miles.

4 (ii) "Eligible manufacturer" means a manufacturer or processor  
5 for hire, engaged in manufacturing within an eligible area.

6 (iii) "Manufacturing" means the same as "to manufacture" as  
7 defined in RCW 82.04.120.

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

14 ~~((+2))~~ (3)(a) Upon every person engaging within this state in  
15 the business of manufacturing semiconductor materials, as to such  
16 persons the amount of tax with respect to such business is, in the  
17 case of manufacturers, equal to the value of the product  
18 manufactured, or, in the case of processors for hire, equal to the  
19 gross income of the business, multiplied by the rate of 0.275  
20 percent. For the purposes of this subsection "semiconductor  
21 materials" means silicon crystals, silicon ingots, raw polished  
22 semiconductor wafers, compound semiconductors, integrated circuits,  
23 and microchips.

24 (b) A person reporting under the tax rate provided in this  
25 subsection ~~((+2))~~ (3) must file a complete annual tax performance  
26 report with the department under RCW 82.32.534.

27 ~~((+3))~~ (4) The measure of the tax is the value of the products,  
28 including byproducts, so manufactured regardless of the place of sale  
29 or the fact that deliveries may be made to points outside the state.

30 ~~((+4))~~ (5) This section expires January 1, 2024, unless the  
31 contingency in RCW 82.32.790(2) occurs.

32 **Sec. 4.** RCW 82.04.440 and 2011 c 2 s 205 are each amended to  
33 read as follows:

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

38 (2) Persons taxable under RCW 82.04.2909(2), 82.04.250,  
39 82.04.270, 82.04.294(2), or 82.04.260 (1)(b), (c), or (d), (4), (11),

1 or (12) with respect to selling products in this state, including  
2 those persons who are also taxable under RCW 82.04.261 and  
3 82.04.240(1), are allowed a credit against those taxes for any (a)  
4 manufacturing taxes paid with respect to the manufacturing of  
5 products so sold in this state, and/or (b) extracting taxes paid with  
6 respect to the extracting of products so sold in this state or  
7 ingredients of products so sold in this state. Extracting taxes taken  
8 as credit under subsection (3) of this section may also be taken  
9 under this subsection, if otherwise allowable under this subsection.  
10 The amount of the credit may not exceed the tax liability arising  
11 under this chapter with respect to the sale of those products.

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

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

33 (5) For the purpose of this section:

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

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

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

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

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

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

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

22 **Sec. 5.** RCW 82.04.433 and 2009 c 494 s 2 are each amended to  
23 read as follows:

24 (1) In computing tax there may be deducted from the measure of  
25 tax imposed under RCW 82.04.240, 82.04.250, and 82.04.270 amounts  
26 derived from sales of fuel for consumption outside the territorial  
27 waters of the United States, by vessels used primarily in foreign  
28 commerce.

29 (2) The deduction in subsection (1) of this section does not  
30 apply with respect to the tax imposed under RCW 82.04.240, in the  
31 case of manufacturers, on the value of the product manufactured and  
32 the gross proceeds of sales of the product manufactured, or in the  
33 case of processors for hire, equal to the gross income of the  
34 business, whether the value of the fuel under that tax is measured by  
35 the gross proceeds derived from the sale thereof or otherwise under  
36 RCW 82.04.450.

37 **Sec. 6.** RCW 82.32.790 and 2017 3rd sp.s. c 37 s 526 are each  
38 amended to read as follows:

1       (1)(a) Section 3, chapter . . . , Laws of 2018 (section 3 of this  
2 act), sections 510, 512, 514, 516, 518, 520, 522, and 524, chapter  
3 37, Laws of 2017 3rd sp. sess., sections 9, 13, 17, 22, 24, 30, 32,  
4 and 45, chapter 135, Laws of 2017, sections 104, 110, 117, 123, 125,  
5 129, 131, and 150, chapter 114, Laws of 2010, and sections 1, 2, 3,  
6 and 5 through 10, chapter 149, Laws of 2003 are contingent upon the  
7 siting and commercial operation of a significant semiconductor  
8 microchip fabrication facility in the state of Washington by January  
9 1, 2024.

10       (b) For the purposes of this section:

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

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

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

19       (2) The sections referenced in subsection (1) of this section  
20 take effect the first day of the month in which a contract for the  
21 construction of a significant semiconductor fabrication facility is  
22 signed, if the contract is signed and received by January 1, 2024, as  
23 determined by the director of the department of revenue.

24       (3)(a) The department of revenue must provide notice of the  
25 effective date of the sections referenced in subsection (1) of this  
26 section to affected taxpayers, the legislature, and others as deemed  
27 appropriate by the department.

28       (b) If, after making a determination that a contract has been  
29 signed and the sections referenced in subsection (1) of this section  
30 are effective, the department discovers that commencement of  
31 commercial production did not take place within three years of the  
32 date the contract was signed, the department must make a  
33 determination that chapter 149, Laws of 2003 is no longer effective,  
34 and all taxes that would have been otherwise due are deemed deferred  
35 taxes and are immediately assessed and payable from any person  
36 reporting tax under RCW 82.04.240(2) or claiming an exemption or  
37 credit under RCW 82.04.426, 82.04.448, 82.08.965, 82.12.965,  
38 82.08.970, 82.12.970, or 84.36.645. The department is not authorized  
39 to make a second determination regarding the effective date of the  
40 sections referenced in subsection (1) of this section.

1 (4)(a) This section expires January 1, 2024, if the contingency  
2 in subsection (2) of this section does not occur by January 1, 2024,  
3 as determined by the department.

4 (b) The department must provide written notice of the expiration  
5 date of this section and the sections referenced in subsection (1) of  
6 this section to affected taxpayers, the legislature, and others as  
7 deemed appropriate by the department.

8 NEW SECTION. **Sec. 7.** Except for section 3 of this act, this act  
9 takes effect January 1, 2019.

10 NEW SECTION. **Sec. 8.** (1) Except for sections 2 and 3 of this  
11 act, this act expires January 1, 2029.

12 (2) Section 2 of this act expires on the date that is the earlier  
13 of:

14 (a) The date that section 3 of this act takes effect; or

15 (b) January 1, 2029.

16 (3) Section 3 of this act expires:

17 (a) January 1, 2024, if the contingency in section 3(5) of this  
18 act occurs; or

19 (b) January 1, 2029.

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