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**HOUSE BILL 2278**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Thai and Senn; by request of Department of Revenue

Read first time 01/10/24. Referred to Committee on Finance.

1 AN ACT Relating to modifying the capital gains tax under chapter  
2 82.87 RCW and related statutes by closing loopholes, repealing and  
3 replacing the business and occupation tax credit with a capital gains  
4 tax credit, clarifying ambiguities and making technical corrections  
5 in a manner that is not estimated to affect state or local tax  
6 collections, treating spouses and domestic partners more  
7 consistently, modifying and adding definitions, creating a good faith  
8 penalty waiver, and modifying the publication schedule for inflation  
9 adjustments; amending RCW 82.04.4497, 82.87.020, 82.87.040,  
10 82.87.050, 82.87.070, 82.87.080, 82.87.110, 82.87.120, 82.87.150,  
11 82.32.060, 82.32.090, and 82.32.105; reenacting and amending RCW  
12 82.32.050; adding a new section to chapter 82.87 RCW; providing an  
13 effective date; and providing an expiration date.

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

15 **Sec. 1.** RCW 82.04.4497 and 2021 c 196 s 16 are each amended to  
16 read as follows:

17 (1) To avoid taxing the same sale or exchange under both the  
18 business and occupation tax and capital gains tax, a credit is  
19 allowed against taxes due under this chapter on a sale or exchange  
20 that is also subject to the tax imposed under RCW 82.87.040. The

1 credit is equal to the amount of tax imposed under this chapter on  
2 such sale or exchange.

3 (2) The credit may be used against any tax due under this  
4 chapter.

5 (3) The credit under this section is earned in regards to a sale  
6 or exchange, and may be claimed against taxes due under this chapter,  
7 for the tax reporting period in which the sale or exchange occurred.  
8 The credit claimed for a tax reporting period may not exceed the tax  
9 otherwise due under this chapter for that tax reporting period.  
10 Unused credit may not be carried forward or backward to another tax  
11 reporting period. No refunds may be granted for unused credit under  
12 this section.

13 (4) (~~The department must apply the credit first to taxes~~  
14 ~~deposited into the general fund.~~) If (~~any remaining~~) the credit  
15 reduces the amount of taxes deposited into the workforce education  
16 investment account established in RCW 43.79.195, the department must  
17 (~~notify the state treasurer of such amounts monthly, and the state~~  
18 ~~treasurer must~~) transfer (~~those~~) an equal amount(~~s~~) from the  
19 general fund to the workforce education investment account.

20 (5) (a) The expiration of this section provided in subsection (6)  
21 of this section does not affect:

22 (i) A taxpayer's liability for tax, penalty, or interest;

23 (ii) A taxpayer's ability to claim a credit under this section  
24 earned from sales or exchanges that occurred prior to the expiration  
25 of this section; or

26 (iii) A taxpayer's ability to claim relief from tax, penalty, or  
27 interest.

28 (b) For purposes of this subsection (5), "liability for tax"  
29 means that the obligation for payment of a tax has been incurred by a  
30 taxpayer, regardless of when the tax is payable or whether the amount  
31 of tax due has been established.

32 (6) This section expires January 1, 2025.

33 NEW SECTION. Sec. 2. A new section is added to chapter 82.87  
34 RCW to read as follows:

35 (1) Beginning in tax year 2025 with taxes due in 2026, to avoid  
36 taxing the same sale or exchange under both the business and  
37 occupation tax and capital gains tax, a nonrefundable credit is  
38 allowed against taxes due under this chapter on a sale or exchange  
39 that is also subject to the tax imposed under chapter 82.04 RCW. The

1 credit is equal to the amount of tax imposed under chapter 82.04 RCW  
2 on such sale or exchange.

3 (2) The credit under this section is earned in regards to a sale  
4 or exchange, and may be claimed against taxes due under this chapter,  
5 for the tax reporting period in which the sale or exchange occurred.  
6 The credit claimed for a tax reporting period may not exceed the tax  
7 otherwise due under this chapter for that tax reporting period.  
8 Unused credit may not be carried forward or backward to another tax  
9 reporting period. No refunds may be granted for unused credit under  
10 this section.

11 (3)(a) By the last working day in March, June, September, and  
12 December of each fiscal year, the state treasurer must transfer from  
13 the general fund to the education legacy trust account created in RCW  
14 83.100.230 and the common school construction fund, as applicable, an  
15 amount equal to the reduction in capital gains taxes due to this  
16 section, as determined by the department under (b) of this subsection  
17 (3). Moneys transferred from the general fund pursuant to this  
18 subsection (3)(a) must be distributed as provided in RCW 82.87.030 as  
19 if they were taxes collected under this chapter.

20 (b)(i) The department must notify the state treasurer of the  
21 amounts required to be transferred as provided in (a) of this  
22 subsection (3) no later than two weeks before the deadline for such  
23 transfers or such other date as may be mutually agreed to by the  
24 department and the state treasurer.

25 (ii) If the department determines, at any time, that a previous  
26 transfer amount determined under this subsection (3)(b) was  
27 overstated or understated for any reason, including an error in  
28 calculation by the department or a reporting error by the taxpayer,  
29 the department must adjust its calculation of the current amount to  
30 be transferred by an amount necessary to offset the previous  
31 overstatement or understatement.

32 (iii) No person may contest the department's determination under  
33 this subsection (3)(b) in any court more than 15 days after the  
34 department furnishes notice of such determination to the state  
35 treasurer. Any action contesting the department's determination must  
36 be made through a petition for judicial review pursuant to the  
37 administrative procedure act, chapter 34.05 RCW, and may only be  
38 filed in Thurston county. The person seeking judicial review is not  
39 required to exhaust any available administrative remedies.

1 (c) For purposes of this subsection (3), "reduction in capital  
2 gains taxes due to this section" means the reduction in taxes  
3 collected under this chapter due to the nonrefundable credit in this  
4 section, where such amounts have not already been offset by the  
5 transfer required by (a) of this subsection (3).

6 **Sec. 3.** RCW 82.87.020 and 2021 c 196 s 4 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Adjusted capital gain" means federal net long-term capital  
11 gain:

12 (a) Plus any amount of long-term capital loss from a sale or  
13 exchange that is exempt from the tax imposed in this chapter, to the  
14 extent such loss was included in calculating federal net long-term  
15 capital gain;

16 (b) Plus any amount of long-term capital loss from a sale or  
17 exchange that is not allocated to Washington under RCW 82.87.100, to  
18 the extent such loss was included in calculating federal net long-  
19 term capital gain;

20 (c) Plus any amount of long-term capital loss (~~carryforward~~)  
21 carryover that is carried forward from a sale or exchange that is not  
22 allocated to Washington under RCW 82.87.100, to the extent such loss  
23 was included in calculating federal net long-term capital gain;

24 (d) Plus any amount of long-term capital loss carryover that is  
25 carried forward from a sale or exchange that is exempt from the tax  
26 imposed in this chapter, to the extent such loss was included in  
27 calculating federal net long-term capital gain;

28 (e) Plus any amount of long-term capital loss carryover that is  
29 carried forward from a sale or exchange that occurred prior to  
30 January 1, 2022, to the extent such loss was included in calculating  
31 federal net long-term capital gain;

32 (f) Less any amount of long-term capital gain from a sale or  
33 exchange that is not allocated to Washington under RCW 82.87.100, to  
34 the extent such gain was included in calculating federal net long-  
35 term capital gain; and

36 (~~(e)~~) (g) Less any amount of long-term capital gain from a sale  
37 or exchange that is exempt from the tax imposed in this chapter, to  
38 the extent such gain was included in calculating federal net long-  
39 term capital gain.

1 (2) "Capital asset" has the same meaning as provided by Title 26  
2 U.S.C. Sec. 1221 of the internal revenue code and also includes any  
3 other property if the sale or exchange of the property results in a  
4 gain that is treated as a long-term capital gain under Title 26  
5 U.S.C. Sec. 1231 or any other provision of the internal revenue code.

6 (3) "Federal net long-term capital gain" means the net long-term  
7 capital gain reportable for federal income tax purposes determined as  
8 if Title 26 U.S.C. Secs. 55 through 59, 1400Z-1, and 1400Z-2 of the  
9 internal revenue code did not exist.

10 (4) "Individual" means a natural person.

11 (5) "Intangible personal property" means personal property that  
12 is not tangible personal property.

13 (6) "Internal revenue code" means the United States internal  
14 revenue code of 1986, as amended, as of July 25, 2021, or such  
15 subsequent date as the department may provide by rule consistent with  
16 the purpose of this chapter.

17 ~~((+6))~~ (7) "Long-term capital asset" means a capital asset that  
18 is held for more than one year.

19 ~~((+7))~~ (8) "Long-term capital gain" means gain from the sale or  
20 exchange of a long-term capital asset.

21 ~~((+8))~~ (9) "Long-term capital loss" means a loss from the sale  
22 or exchange of a long-term capital asset.

23 ~~((+9))~~ (10) "Real estate" means land and fixtures affixed to  
24 land. "Real estate" also includes used mobile homes, used park model  
25 trailers, used floating homes, and improvements constructed upon  
26 leased land.

27 ~~((+10))~~ (11)(a) "Resident" means an individual:

28 (i) Who is domiciled in this state during the taxable year,  
29 unless the individual (A) maintained no permanent place of abode in  
30 this state during the entire taxable year, (B) maintained a permanent  
31 place of abode outside of this state during the entire taxable year,  
32 and (C) spent in the aggregate not more than 30 days of the taxable  
33 year in this state; or

34 (ii) Who is not domiciled in this state during the taxable year,  
35 but maintained a place of abode and was physically present in this  
36 state for more than 183 days during the taxable year.

37 (b) For purposes of this subsection, "day" means a calendar day  
38 or any portion of a calendar day.

39 (c) An individual who is a resident under (a) of this subsection  
40 is a resident for that portion of a taxable year in which the

1 individual was domiciled in this state or maintained a place of abode  
2 in this state.

3 ~~((11))~~ (12) "Tangible personal property" means personal  
4 property that can be seen, weighed, measured, felt, or touched.  
5 "Tangible personal property" does not include steam, electricity, or  
6 electrical energy.

7 (13) "Taxable year" means the taxpayer's taxable year as  
8 determined under the internal revenue code.

9 ~~((12))~~ (14) "Taxpayer" means an individual subject to tax under  
10 this chapter.

11 ~~((13))~~ (15) "Washington capital gains" means an individual's  
12 adjusted capital gain, as modified in RCW 82.87.060, for each return  
13 filed under this chapter.

14 **Sec. 4.** RCW 82.87.040 and 2021 c 196 s 5 are each amended to  
15 read as follows:

16 (1) Beginning January 1, 2022, an excise tax is imposed on the  
17 sale or exchange of long-term capital assets. Only individuals are  
18 subject to payment of the tax, which equals seven percent multiplied  
19 by an individual's Washington capital gains.

20 (2) The tax levied in subsection (1) of this section is necessary  
21 for the support of the state government and its existing public  
22 institutions.

23 (3) If an individual's Washington capital gains are less than  
24 zero for a taxable year, no tax is due under this section and no such  
25 amount is allowed as a carryover for use in the calculation of that  
26 individual's adjusted capital gain, as defined in RCW 82.87.020(1),  
27 for any taxable year. To the extent that a loss carryforward is  
28 included in the calculation of an individual's federal net long-term  
29 capital gain and that loss carryforward is directly attributable to  
30 losses from sales or exchanges allocated to this state under RCW  
31 82.87.100, the loss carryforward is included in the calculation of  
32 that individual's adjusted capital gain for the purposes of this  
33 chapter. An individual may not include any losses carried back for  
34 federal income tax purposes in the calculation of that individual's  
35 adjusted capital gain for any taxable year.

36 (4)(a) The tax imposed in this section applies to the sale or  
37 exchange of long-term capital assets owned by the taxpayer, whether  
38 the taxpayer was the legal or beneficial owner of such assets at the  
39 time of the sale or exchange. The tax applies when the Washington

1 capital gains are recognized by the taxpayer in accordance with this  
2 chapter.

3 (b) For purposes of this chapter:

4 (i) An individual is considered to be a beneficial owner of long-  
5 term capital assets held by an entity that is a pass-through or  
6 disregarded entity for federal tax purposes, such as a partnership,  
7 limited liability company, S corporation, or grantor trust, to the  
8 extent of the individual's ownership interest in the entity as  
9 reported for federal income tax purposes.

10 (ii) A nongrantor trust is deemed to be a grantor trust if the  
11 trust does not qualify as a grantor trust for federal tax purposes,  
12 and the grantor's transfer of assets to the trust is treated as an  
13 incomplete gift under Title 26 U.S.C. Sec. 2511 of the internal  
14 revenue code and its accompanying regulations. A grantor of such  
15 trust is considered the beneficial owner of the capital assets of the  
16 trust for purposes of the tax imposed in this section and must  
17 include any long-term capital gain or loss from the sale or exchange  
18 of a capital asset by the trust in the calculation of that  
19 individual's adjusted capital gain, if such gain or loss is allocated  
20 to this state under RCW 82.87.100.

21 (iii) Section 1256 contracts that are treated as sold pursuant to  
22 Title 26 U.S.C. Sec. 1256(a) of the internal revenue code are  
23 considered sold for the purposes of the tax imposed in this chapter.  
24 Any long-term capital gain or loss from such sale, as determined by  
25 Title 26 U.S.C. Sec. 1256(a)(3), is included in the calculation of  
26 the individual's adjusted capital gain to the extent such gain or  
27 loss is included in calculating the individual's federal net long-  
28 term capital gain. For the purposes of this subsection, "section 1256  
29 contracts" has the same meaning as provided by Title 26 U.S.C. Sec.  
30 1256 of the internal revenue code.

31 **Sec. 5.** RCW 82.87.050 and 2021 c 196 s 6 are each amended to  
32 read as follows:

33 This chapter does not apply to the sale or exchange of:

34 (1) All real estate transferred by deed, real estate contract,  
35 judgment, or other lawful instruments that transfer title to real  
36 property and are filed as a public record with the counties where  
37 real property is located;

38 (2) (a) An interest in a privately held entity only to the extent  
39 that any long-term capital gain or loss from such sale or exchange is

1 directly attributable to the real estate owned directly by such  
2 entity.

3 (b) (i) Except as provided in (b) (ii) and (iii) of this  
4 subsection, the value of the exemption under this subsection is equal  
5 to the fair market value of the real estate owned directly by the  
6 entity less its basis, at the time that the sale or exchange of the  
7 individual's interest occurs, multiplied by the percentage of the  
8 ownership interest in the entity which is sold or exchanged by the  
9 individual.

10 (ii) If a sale or exchange of an interest in an entity results in  
11 an amount directly attributable to real property and that is  
12 considered as an amount realized from the sale or exchange of  
13 property other than a capital asset under Title 26 U.S.C. Sec. 751 of  
14 the internal revenue code, such amount must not be considered in the  
15 calculation of an individual's exemption amount under (b) (i) of this  
16 subsection (2).

17 (iii) Real estate not owned directly by the entity in which an  
18 individual is selling or exchanging the individual's interest must  
19 not be considered in the calculation of an individual's exemption  
20 amount under (b) (i) of this subsection (2).

21 (c) Fair market value of real estate may be established by a fair  
22 market appraisal of the real estate or an allocation of assets by the  
23 seller and the buyer made under Title 26 U.S.C. Sec. 1060 of the  
24 internal revenue code, as amended. However, the department is not  
25 bound by the parties' agreement as to the allocation of assets,  
26 allocation of consideration, or fair market value, if such  
27 allocations or fair market value do not reflect the fair market value  
28 of the real estate. The assessed value of the real estate for  
29 property tax purposes may be used to determine the fair market value  
30 of the real estate, if the assessed value is current as of the date  
31 of the sale or exchange of the ownership interest in the entity  
32 owning the real estate and the department determines that this method  
33 is reasonable under the circumstances.

34 (d) The value of the exemption under this subsection (2) may not  
35 exceed the individual's long-term capital gain or loss from the sale  
36 or exchange of an interest in an entity for which the individual is  
37 claiming this exemption;

38 (3) Assets held under a retirement savings account under Title 26  
39 U.S.C. Sec. 401(k) of the internal revenue code, a tax-sheltered  
40 annuity or custodial account described in Title 26 U.S.C. Sec. 403(b)



1 of the internal revenue code, a deferred compensation plan under  
2 Title 26 U.S.C. Sec. 457(b) of the internal revenue code, an  
3 individual retirement account or individual retirement annuity  
4 described in Title 26 U.S.C. Sec. 408 of the internal revenue code, a  
5 Roth individual retirement account described in Title 26 U.S.C. Sec.  
6 408A of the internal revenue code, an employee defined contribution  
7 program, an employee defined benefit plan, or a similar retirement  
8 savings vehicle, whether foreign or domestic, that penalizes  
9 withdrawals until the legal or beneficial owner reaches a certain  
10 age;

11 (4) Assets pursuant to, or under imminent threat of, condemnation  
12 proceedings by the United States, the state or any of its political  
13 subdivisions, or a municipal corporation;

14 (5) Cattle, horses, or breeding livestock if for the taxable year  
15 of the sale or exchange, more than 50 percent of the taxpayer's gross  
16 income for the taxable year, including from the sale or exchange of  
17 capital assets, is from farming or ranching;

18 (6) Property (~~(depreciable)~~) depreciated under Title 26 U.S.C.  
19 Sec. 167(a)(1) of the internal revenue code, or (~~that qualifies for~~  
20 ~~expensing~~) expensed under Title 26 U.S.C. Sec. 179 of the internal  
21 revenue code;

22 (7) Timber, timberland, or the receipt of Washington capital  
23 gains as dividends and distributions from real estate investment  
24 trusts derived from gains from the sale or exchange of timber and  
25 timberland. "Timber" means forest trees, standing or down, on  
26 privately or publicly owned land, and includes Christmas trees and  
27 short-rotation hardwoods. The sale or exchange of timber includes the  
28 cutting or disposal of timber qualifying for capital gains treatment  
29 under Title 26 U.S.C. Sec. 631(a) or (b) of the internal revenue  
30 code;

31 (8)(a) Commercial fishing privileges.

32 (b) For the purposes of this subsection (8), "commercial fishing  
33 privilege" means a right, held by a seafood harvester or processor,  
34 to participate in a limited access fishery. "Commercial fishing  
35 privilege" includes and is limited to:

36 (i) In the case of federally managed fisheries, quota and access  
37 to fisheries assigned pursuant to individual fishing quota programs,  
38 limited entry and catch share programs, cooperative fishing  
39 management agreements, or similar arrangements; and

1 (ii) In the case of state-managed fisheries, quota and access to  
2 fisheries assigned under fishery permits, limited entry and catch  
3 share programs, or similar arrangements; and

4 (9) Goodwill received from the sale of an auto dealership  
5 licensed under chapter 46.70 RCW whose activities are subject to  
6 chapter 46.96 RCW.

7 **Sec. 6.** RCW 82.87.070 and 2021 c 196 s 8 are each amended to  
8 read as follows:

9 (1) In computing tax under this chapter for a taxable year, a  
10 taxpayer may deduct from his or her Washington capital gains the  
11 amount of adjusted capital gain derived in the taxable year from the  
12 sale of substantially all of the fair market value of the assets of,  
13 or the transfer of substantially all of the taxpayer's interest in, a  
14 qualified family-owned small business, to the extent that such  
15 adjusted capital gain would otherwise be included in the taxpayer's  
16 Washington capital gains.

17 (2) For purposes of this section, the following definitions  
18 apply:

19 (a) "Assets" means real property and personal property, including  
20 tangible personal property and intangible property.

21 (b) "Family" means the same as "member of the family" in RCW  
22 83.100.046.

23 (c) (i) "Materially participated" means an individual was involved  
24 in the operation of a business on a basis that is regular,  
25 continuous, and substantial.

26 (ii) The term "materially participated" must be interpreted  
27 consistently with the applicable treasury regulations for Title 26  
28 U.S.C. Sec. 469 of the internal revenue code, to the extent that such  
29 interpretation does not conflict with any provision of this section.

30 (d) "Qualified family-owned small business" means a business:

31 (i) In which the taxpayer held a qualifying interest for at least  
32 five years immediately preceding the sale or transfer described in  
33 subsection (1) of this section. For the purposes of this subsection,  
34 the calculation of an individual's holding period for a qualifying  
35 interest is not reset in the event that a business either changes its  
36 entity type or makes a nonmaterial change, or both;

37 (ii) In which either the taxpayer or members of the taxpayer's  
38 family, or both, materially participated in operating the business  
39 for at least five of the 10 years immediately preceding the sale or

1 transfer described in subsection (1) of this section, unless such  
2 sale or transfer was to a qualified heir; and

3 (iii) That had worldwide gross revenue of \$10,000,000 or less in  
4 the 12-month period immediately preceding the sale or transfer  
5 described in subsection (1) of this section. The worldwide gross  
6 revenue amount under this subsection (2)(d)(iii) shall be adjusted  
7 annually as provided in RCW 82.87.150.

8 (e) "Qualified heir" means a member of the taxpayer's family.

9 (f) "Qualifying interest" means:

10 (i) An interest as a proprietor in a business carried on as a  
11 sole proprietorship; or

12 (ii) An interest in a business if at least:

13 (A) Fifty percent of the business is owned, directly or  
14 indirectly, by any combination of the taxpayer or members of the  
15 taxpayer's family, or both;

16 (B) Thirty percent of the business is owned, directly or  
17 indirectly, by any combination of the taxpayer or members of the  
18 taxpayer's family, or both, and at least:

19 (I) Seventy percent of the business is owned, directly or  
20 indirectly, by members of two families; or

21 (II) Ninety percent of the business is owned, directly or  
22 indirectly, by members of three families.

23 (g) "Substantially all" means at least 90 percent.

24 **Sec. 7.** RCW 82.87.080 and 2021 c 196 s 9 are each amended to  
25 read as follows:

26 (1) In computing tax under this chapter for a taxable year, a  
27 taxpayer may deduct from (~~his or her~~) the person's Washington  
28 capital gains the amount donated by the taxpayer to one or more  
29 qualified organizations during the same taxable year in excess of the  
30 minimum qualifying charitable donation amount. For the purposes of  
31 this section, the minimum qualifying charitable donation amount  
32 equals \$250,000. The minimum qualifying charitable donation amount  
33 under this subsection (1) shall be adjusted pursuant to RCW  
34 82.87.150.

35 (2) The deduction authorized under subsection (1) of this section  
36 may not exceed \$100,000 for the taxable year. The maximum amount of  
37 the available deduction under this subsection (2) shall be adjusted  
38 pursuant to RCW 82.87.150.

1 (3) The deduction authorized under subsection (1) of this section  
2 may not be carried forward or backward to another tax reporting  
3 period.

4 (4) For the purposes of this section, the following definitions  
5 apply:

6 (a) "Nonprofit organization" means an organization exempt from  
7 tax under Title 26 U.S.C. Sec. 501(c)(3) of the internal revenue  
8 code.

9 (b) "Principally directed or managed" means the place where a  
10 qualified organization's officers direct, control, and coordinate the  
11 qualified organization's activities.

12 (c) "Qualified organization" means a nonprofit organization, or  
13 any other organization, that is:

14 (i) Eligible to receive a charitable (~~deduction~~) contribution  
15 as defined in Title 26 U.S.C. Sec. 170(c) of the internal revenue  
16 code; and

17 (ii) Principally directed or managed within the state of  
18 Washington.

19 **Sec. 8.** RCW 82.87.110 and 2021 c 196 s 12 are each amended to  
20 read as follows:

21 (1)(a) Except as otherwise provided in this section or RCW  
22 82.32.080, taxpayers owing tax under this chapter must file, on forms  
23 prescribed by the department, a return with the department on or  
24 before the date the taxpayer's federal income tax return for the  
25 taxable year is required to be filed.

26 (b)(i) Except as provided in (b)(ii) of this subsection (1),  
27 returns and all supporting documents must be filed electronically  
28 using the department's online tax filing service or other method of  
29 electronic reporting as the department may authorize.

30 (ii) The department may waive the electronic filing requirement  
31 in this subsection for good cause as provided in RCW 82.32.080.

32 (2) (~~In addition to the Washington return required to be filed~~  
33 ~~under subsection (1) of this section, taxpayers~~) (a) Taxpayers owing  
34 tax under this chapter must (~~file with the department on or before~~  
35 ~~the date the federal return is required to be filed~~) include with  
36 the Washington return described in subsection (1) of this section a  
37 copy of ((the)) all federal income tax return ((along with all))  
38 forms, schedules, and supporting documentation, that are used in the  
39 calculation of the individual's federal net long-term capital gain

1 and filed with the internal revenue service of the United States by  
2 either the taxpayer or another person, or both. In the event that  
3 document is filed with the internal revenue service of the United  
4 States by a person other than the individual, the individual is  
5 required to provide a copy of the filed document.

6 (b) A taxpayer must provide to the department, upon request,  
7 other federal tax return information needed to verify the tax owed  
8 under this chapter.

9 (c) The department may prescribe additional filing requirements  
10 under (a) of this subsection (2) to substantiate an individual's  
11 federal net long-term capital gain.

12 (3) Each taxpayer required to file a return under this section  
13 must, without assessment, notice, or demand, pay any tax due thereon  
14 to the department on or before the date fixed for the filing of the  
15 return, regardless of any filing extension. The tax must be paid by  
16 electronic funds transfer as defined in RCW 82.32.085 or by other  
17 forms of electronic payment as may be authorized by the department.  
18 The department may waive the electronic payment requirement for good  
19 cause as provided in RCW 82.32.080. If any tax due under this chapter  
20 is not paid by the due date, interest and penalties as provided in  
21 chapter 82.32 RCW apply to the deficiency.

22 (4) (a) In addition to the Washington return required to be filed  
23 under subsection (1) of this section, an individual claiming an  
24 exemption under RCW 82.87.050(2) must file a return with the  
25 department, including the documentation described in subsection (2)  
26 of this section, on or before the date the taxpayer's federal income  
27 tax return for the taxable year is required to be filed regardless of  
28 whether they owe tax under this chapter. Additionally, the individual  
29 must file documentation substantiating the following:

30 (i) The fair market value and basis of the real estate held  
31 directly by the entity in which the interest was sold or exchanged;

32 (ii) The percentage of the ownership interest sold or exchanged  
33 in the entity owning real estate; and

34 (iii) The methodology, if any, established by the entity in which  
35 the interest was sold or exchanged, for allocating gains or losses to  
36 the owners, partners, or shareholders of the entity from the sale of  
37 real estate.

38 (b) The department may by rule prescribe additional filing  
39 requirements to substantiate an individual's claim for an exemption  
40 under RCW 82.87.050(2). Prior to adopting any rule under this

1 subsection (4)(b), the department must allow for an opportunity for  
2 participation by interested parties in the rule-making process in  
3 accordance with the administrative procedure act, chapter 34.05 RCW.

4 (5) If a taxpayer has obtained an extension of time for filing  
5 the federal income tax return for the taxable year and the taxpayer  
6 provides the department, on or before the date fixed for the filing  
7 of the return, regardless of any filing extension, evidence  
8 satisfactory to the department confirming the federal extension, the  
9 taxpayer is entitled to the same extension of time for filing the  
10 return required under this section (~~((if the taxpayer provides the~~  
11 ~~department, before the due date provided in subsection (1) of this~~  
12 ~~section, the extension confirmation number or other evidence~~  
13 ~~satisfactory to the department confirming the federal extension))). An  
14 extension under this subsection for the filing of a return under this  
15 chapter is not an extension of time to pay the tax due under this  
16 chapter.~~

17 (6)(a) If any return due under subsection (1) of this section,  
18 along with a copy of the federal income tax return, is not filed with  
19 the department by the due date or any extension granted by the  
20 department, the department must assess a penalty in the amount of  
21 five percent of the tax due for the taxable year covered by the  
22 return for each month or portion of a month that the return remains  
23 unfiled. The total penalty assessed under this subsection may not  
24 exceed 25 percent of the tax due for the taxable year covered by the  
25 delinquent return. The penalty under this subsection is in addition  
26 to any penalties assessed for the late payment of any tax due on the  
27 return.

28 (b) The department must waive or cancel the penalty imposed under  
29 this subsection if:

30 (i) The department is persuaded that the taxpayer's failure to  
31 file the return by the due date was due to circumstances beyond the  
32 taxpayer's control; or

33 (ii) The taxpayer has not been delinquent in filing any return  
34 due under this section during the preceding five calendar years.

35 **Sec. 9.** RCW 82.87.120 and 2021 c 196 s 13 are each amended to  
36 read as follows:

37 (1) If the federal income tax liabilities of both spouses are  
38 determined on a joint federal return for the taxable year, they must  
39 file a joint return under this chapter.

1 (2) Except as otherwise provided in this subsection, if the  
2 federal income tax liability of any individual, including either  
3 spouse of a marital community, is determined on a separate federal  
4 return for the taxable year, they must file separate returns under  
5 this chapter. State registered domestic partners may file a joint  
6 return under this chapter even if they filed separate federal returns  
7 for the taxable year.

8 (3) The liability for tax due under this chapter of each spouse  
9 or state registered domestic partner is joint and several, unless:

10 (a) The spouse is relieved of liability for federal tax purposes  
11 as provided under Title 26 U.S.C. Sec. 6015 of the internal revenue  
12 code; or

13 (b) The department determines that the domestic partner qualifies  
14 for relief as provided by rule of the department. Such rule, to the  
15 extent possible without being inconsistent with this chapter, must  
16 follow Title 26 U.S.C. Sec. 6015.

17 (4)(a) Unless the context clearly indicates otherwise,  
18 individuals who are spouses or state registered domestic partners are  
19 not considered separate taxpayers for the purposes of this chapter  
20 regardless of whether they file a joint or separate return for the  
21 tax imposed under this chapter. The activities and assets of each  
22 spouse or state registered domestic partner are combined as if they  
23 were one individual for the purposes of determining the applicability  
24 of any threshold amounts, caps, deductions, credits, or any other  
25 amounts related to the activities or assets of an individual  
26 throughout this chapter.

27 (b)(i) Except as provided in (b)(ii) of this subsection (4), when  
28 an individual does not file a joint return for the tax imposed under  
29 this chapter, both spouses or state registered domestic partners must  
30 allocate between themselves their respective share of the marital  
31 community's or domestic partnership's assets and activity. The  
32 allocation must be reported to the department on any returns required  
33 to be filed pursuant to this chapter in a manner prescribed by the  
34 department.

35 (ii) If both spouses or state registered domestic partners cannot  
36 agree on an allocation of assets and activity as authorized under  
37 (b)(i) of this subsection (4), each spouse is limited to one-half of  
38 the total assets and activities of their marital community or  
39 domestic partnership.

1       **Sec. 10.** RCW 82.87.150 and 2021 c 196 s 17 are each amended to  
2 read as follows:

3       (1) Beginning (~~December 2023~~) October 2024 and each  
4 (~~December~~) October thereafter, the department must adjust the  
5 applicable amounts by multiplying the current applicable amounts by  
6 one plus the percentage by which the most current consumer price  
7 index available on (~~December~~) October 1st of the current year  
8 exceeds the consumer price index for the prior 12-month period, and  
9 rounding the result to the nearest \$1,000. If an adjustment under  
10 this subsection (1) would reduce the applicable amounts, the  
11 department must not adjust the applicable amounts for use in the  
12 following year. The department must publish the adjusted applicable  
13 amounts on its public website by (~~December~~) October 31st. The  
14 adjusted applicable amounts calculated under this subsection (1) take  
15 effect for taxes due and distributions made, as the case may be, in  
16 the following calendar year.

17       (2) For purposes of this section, the following definitions  
18 apply:

19       (a) "Applicable amounts" means:

20       (i) The distribution amount to the education legacy trust account  
21 as provided in RCW 82.87.030(1)(a);

22       (ii) The standard deduction amount in RCW (~~82.87.020(13) and~~)  
23 82.87.060(1);

24       (iii) The worldwide gross revenue amount under RCW 82.87.070;  
25 and

26       (iv) The minimum qualifying charitable donation amount and  
27 maximum charitable donation amount under RCW 82.87.080.

28       (b) "Consumer price index" means the consumer price index for all  
29 urban consumers, all items, for the Seattle area as calculated by the  
30 United States bureau of labor statistics or its successor agency.

31       (c) "Seattle area" means the geographic area sample that includes  
32 Seattle and surrounding areas.

33       **Sec. 11.** RCW 82.32.050 and 2022 c 282 s 2 and 2022 c 41 s 2 are  
34 each reenacted and amended to read as follows:

35       (1) If upon examination of any returns or from other information  
36 obtained by the department it appears that a tax or penalty has been  
37 paid less than that properly due, the department shall assess against  
38 the taxpayer such additional amount found to be due and shall add  
39 thereto interest on the tax only. The department shall notify the



1 taxpayer by mail, or electronically as provided in RCW 82.32.135, of  
2 the additional amount and the additional amount shall become due and  
3 shall be paid within thirty days from the date of the notice, or  
4 within such further time as the department may provide.

5 (a) For tax liabilities arising before January 1, 1992, interest  
6 shall be computed at the rate of nine percent per annum from the last  
7 day of the year in which the deficiency is incurred until the earlier  
8 of December 31, 1998, or the date of payment. After December 31,  
9 1998, the rate of interest shall be variable and computed as provided  
10 in subsection (2) of this section. The rate so computed shall be  
11 adjusted on the first day of January of each year for use in  
12 computing interest for that calendar year.

13 (b) For tax liabilities arising after December 31, 1991, the rate  
14 of interest shall be variable and computed as provided in subsection  
15 (2) of this section from the last day of the year in which the  
16 deficiency is incurred until the date of payment. The rate so  
17 computed shall be adjusted on the first day of January of each year  
18 for use in computing interest for that calendar year.

19 (c)(i) Except as otherwise provided in this subsection (1)(c),  
20 interest imposed after December 31, 1998, shall be computed from the  
21 last day of the month following each calendar year included in a  
22 notice, and the last day of the month following the final month  
23 included in a notice if not the end of a calendar year, until the due  
24 date of the notice.

25 (ii) For interest associated with annual tax reporting periods  
26 having a due date as prescribed in RCW 82.32.045(3) and 82.87.110,  
27 interest must be computed from the last day of April immediately  
28 following each such annual reporting period included in the notice,  
29 until the due date of the notice.

30 (iii) For purposes of computing interest under (c)(i) and (ii) of  
31 this subsection (1):

32 (A) The same computation of interest applies regardless of  
33 whether the department grants additional time for filing any return  
34 under RCW 82.32.080(4)(a)(i).

35 (B) If the department extends a due date under subsection (3) of  
36 this section or RCW 82.32.080(4)(b), and payment is not made in full  
37 by the extended due date, interest is computed from the last day of  
38 the month in which the extended due date occurs until the date of  
39 payment.

1 (iv) If payment in full is not made by the due date of the  
2 notice, additional interest shall be computed under this subsection  
3 (1)(c) until the date of payment. The rate of interest shall be  
4 variable and computed as provided in subsection (2) of this section.  
5 The rate so computed shall be adjusted on the first day of January of  
6 each year for use in computing interest for that calendar year.

7 (2) For the purposes of this section, the rate of interest to be  
8 charged to the taxpayer shall be an average of the federal short-term  
9 rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points.  
10 The rate set for each new year shall be computed by taking an  
11 arithmetical average to the nearest percentage point of the federal  
12 short-term rate, compounded annually. That average shall be  
13 calculated using the rates from four months: January, April, and July  
14 of the calendar year immediately preceding the new year, and October  
15 of the previous preceding year.

16 (3) During a state of emergency declared under RCW 43.06.010(12),  
17 the department, on its own motion or at the request of any taxpayer  
18 affected by the emergency, may extend the due date of any assessment  
19 or correction of an assessment for additional taxes, penalties, or  
20 interest as the department deems proper.

21 (4) No assessment or correction of an assessment for additional  
22 taxes, penalties, or interest due may be made by the department more  
23 than four years after the close of the tax year, except (a) against a  
24 taxpayer who has not registered as required by this chapter, (b) upon  
25 a showing of fraud or of misrepresentation of a material fact by the  
26 taxpayer, or (c) where a taxpayer has executed a written waiver of  
27 such limitation. The execution of a written waiver shall also extend  
28 the period for making a refund or credit as provided in RCW  
29 82.32.060(2).

30 (5) For the purposes of this section, the following definitions  
31 apply:

32 (a) "Due date of the notice" means the date indicated in the  
33 notice by which the amount due in the notice must be paid, or such  
34 later date as provided by RCW 1.12.070(3).

35 (b) "Return" means any document a person is required by the state  
36 of Washington to file to satisfy or establish a tax or fee obligation  
37 that is administered or collected by the department and that has a  
38 statutorily defined due date. "Return" also means an application for  
39 refund under RCW 82.08.0206.

1       **Sec. 12.** RCW 82.32.060 and 2020 c 139 s 61 are each amended to  
2 read as follows:

3       (1) If, upon receipt of an application by a taxpayer for a refund  
4 or for an audit of the taxpayer's records, or upon an examination of  
5 the returns or records of any taxpayer, it is determined by the  
6 department that within the statutory period for assessment of taxes,  
7 penalties, or interest prescribed by RCW 82.32.050 any amount of tax,  
8 penalty, or interest has been paid in excess of that properly due,  
9 the excess amount paid within, or attributable to, such period must  
10 be credited to the taxpayer's account or must be refunded to the  
11 taxpayer, at the taxpayer's option. Except as provided in subsection  
12 (2) of this section, no refund or credit may be made for taxes,  
13 penalties, or interest paid more than four years prior to the  
14 beginning of the calendar year in which the refund application is  
15 made or examination of records is completed.

16       (2)(a) The execution of a written waiver under RCW 82.32.050 or  
17 82.32.100 will extend the time for making a refund or credit of any  
18 taxes paid during, or attributable to, the years covered by the  
19 waiver if, prior to the expiration of the waiver period, an  
20 application for refund of such taxes is made by the taxpayer or the  
21 department discovers a refund or credit is due.

22       (b) A refund or credit must be allowed for an excess payment  
23 resulting from the failure to claim a bad debt deduction, credit, or  
24 refund under RCW 82.04.4284, 82.08.037, 82.12.037, 82.14B.150, or  
25 82.16.050(5) for debts that became bad debts under 26 U.S.C. Sec.  
26 166, as amended or renumbered as of January 1, 2003, less than four  
27 years prior to the beginning of the calendar year in which the refund  
28 application is made or examination of records is completed.

29       (3) Any such refunds must be made by means of vouchers approved  
30 by the department and by the issuance of state warrants drawn upon  
31 and payable from such funds as the legislature may provide. However,  
32 taxpayers who are required to pay taxes by electronic funds transfer  
33 under RCW 82.32.080 must have any refunds paid by electronic funds  
34 transfer if the department has the necessary account information to  
35 facilitate a refund by electronic funds transfer.

36       (4) Any judgment for which a recovery is granted by any court of  
37 competent jurisdiction, not appealed from, for tax, penalties, and  
38 interest which were paid by the taxpayer, and costs, in a suit by any  
39 taxpayer must be paid in the same manner, as provided in subsection

1 (3) of this section, upon the filing with the department of a  
2 certified copy of the order or judgment of the court.

3 (a) Interest at the rate of three percent per annum must be  
4 allowed by the department and by any court on the amount of any  
5 refund, credit, or other recovery allowed to a taxpayer for taxes,  
6 penalties, or interest paid by the taxpayer before January 1, 1992.  
7 This rate of interest applies for all interest allowed through  
8 December 31, 1998. Interest allowed after December 31, 1998, must be  
9 computed at the rate as computed under RCW 82.32.050(2). The rate so  
10 computed must be adjusted on the first day of January of each year  
11 for use in computing interest for that calendar year.

12 (b) For refunds or credits of amounts paid or other recovery  
13 allowed to a taxpayer after December 31, 1991, the rate of interest  
14 must be the rate as computed for assessments under RCW 82.32.050(2)  
15 less one percent. This rate of interest applies for all interest  
16 allowed through December 31, 1998. Interest allowed after December  
17 31, 1998, must be computed at the rate as computed under RCW  
18 82.32.050(2). The rate so computed must be adjusted on the first day  
19 of January of each year for use in computing interest for that  
20 calendar year.

21 (5) Interest allowed on a credit notice or refund issued after  
22 December 31, 2003, must be computed as follows:

23 (a) If all overpayments for each calendar year and all reporting  
24 periods ending with the final month included in a notice or refund  
25 were made on or before the due date of the final return for each  
26 calendar year or the final reporting period included in the notice or  
27 refund:

28 (i) Interest must be computed from January 31st following each  
29 calendar year included in a notice or refund;

30 (ii) Interest must be computed from the last day of the month  
31 following the final month included in a notice or refund; or

32 (iii) For interest associated with annual tax reporting periods  
33 having a due date as prescribed in RCW 82.32.045(3) and 82.87.110,  
34 interest must be computed from the last day of April following each  
35 such annual reporting period included in a notice or refund.

36 (b) If the taxpayer has not made all overpayments for each  
37 calendar year and all reporting periods ending with the final month  
38 included in a notice or refund on or before the dates specified by  
39 RCW 82.32.045 for the final return for each calendar year or the  
40 final month included in the notice or refund, interest must be

1 computed from the last day of the month following the date on which  
2 payment in full of the liabilities was made for each calendar year  
3 included in a notice or refund, and the last day of the month  
4 following the date on which payment in full of the liabilities was  
5 made if the final month included in a notice or refund is not the end  
6 of a calendar year.

7 (c) Interest included in a credit notice must accrue up to the  
8 date the taxpayer could reasonably be expected to use the credit  
9 notice, as defined by the department's rules. If a credit notice is  
10 converted to a refund, interest must be recomputed to the date the  
11 refund is issued, but not to exceed the amount of interest that would  
12 have been allowed with the credit notice.

13 **Sec. 13.** RCW 82.32.090 and 2015 3rd sp.s. c 5 s 401 are each  
14 amended to read as follows:

15 (1) If payment of any tax due on a return to be filed by a  
16 taxpayer is not received by the department of revenue by the due  
17 date, there is assessed a penalty of nine percent of the amount of  
18 the tax; and if the tax is not received on or before the last day of  
19 the month following the due date, there is assessed a total penalty  
20 of (~~nineteen~~) 19 percent of the amount of the tax under this  
21 subsection; and if the tax is not received on or before the last day  
22 of the second month following the due date, there is assessed a total  
23 penalty of (~~twenty-nine~~) 29 percent of the amount of the tax under  
24 this subsection. No penalty so added may be less than (~~five~~  
25 ~~dollars~~) \$5.

26 (2) If the department of revenue determines that any tax has been  
27 substantially underpaid, there is assessed a penalty of five percent  
28 of the amount of the tax determined by the department to be due. If  
29 payment of any tax determined by the department to be due is not  
30 received by the department by the due date specified in the notice,  
31 or any extension thereof, there is assessed a total penalty of  
32 (~~fifteen~~) 15 percent of the amount of the tax under this  
33 subsection; and if payment of any tax determined by the department to  
34 be due is not received on or before the thirtieth day following the  
35 due date specified in the notice of tax due, or any extension  
36 thereof, there is assessed a total penalty of (~~twenty-five~~) 25  
37 percent of the amount of the tax under this subsection. No penalty so  
38 added may be less than five dollars. As used in this section,  
39 "substantially underpaid" means that the taxpayer has paid less than

1 (~~eighty~~) 80 percent of the amount of tax determined by the  
2 department to be due for all of the types of taxes included in, and  
3 for the entire period of time covered by, the department's  
4 examination, and the amount of underpayment is at least (~~one~~  
5 ~~thousand dollars~~) \$1,000.

6 (3) If a warrant is issued by the department of revenue for the  
7 collection of taxes, increases, and penalties, there is added thereto  
8 a penalty of (~~ten~~) 10 percent of the amount of the tax, but not  
9 less than (~~ten dollars~~) \$10.

10 (4) If the department finds that a person has engaged in any  
11 business or performed any act upon which a tax is imposed under this  
12 title and that person has not obtained from the department a  
13 registration certificate as required by RCW 82.32.030, the department  
14 must impose a penalty of five percent of the amount of tax due from  
15 that person for the period that the person was not registered as  
16 required by RCW 82.32.030. The department may not impose the penalty  
17 under this subsection (4) if a person who has engaged in business  
18 taxable under this title without first having registered as required  
19 by RCW 82.32.030, prior to any notification by the department of the  
20 need to register, obtains a registration certificate from the  
21 department.

22 (5) If the department finds that a taxpayer has disregarded  
23 specific written instructions as to reporting or tax liabilities, or  
24 willfully disregarded the requirement to file returns or remit  
25 payment electronically, as provided by RCW 82.32.080, the department  
26 must add a penalty of (~~ten~~) 10 percent of the amount of the tax  
27 that should have been reported and/or paid electronically or the  
28 additional tax found due if there is a deficiency because of the  
29 failure to follow the instructions. A taxpayer disregards specific  
30 written instructions when the department has informed the taxpayer in  
31 writing of the taxpayer's tax obligations and the taxpayer fails to  
32 act in accordance with those instructions unless, in the case of a  
33 deficiency, the department has not issued final instructions because  
34 the matter is under appeal pursuant to this chapter or departmental  
35 regulations. The department may not assess the penalty under this  
36 section upon any taxpayer who has made a good faith effort to comply  
37 with the specific written instructions provided by the department to  
38 that taxpayer. A taxpayer will be considered to have made a good  
39 faith effort to comply with specific written instructions to file  
40 returns and/or remit taxes electronically only if the taxpayer can

1 show good cause, as defined in RCW 82.32.080, for the failure to  
2 comply with such instructions. A taxpayer will be considered to have  
3 willfully disregarded the requirement to file returns or remit  
4 payment electronically if the department has mailed or otherwise  
5 delivered the specific written instructions to the taxpayer on at  
6 least two occasions. Specific written instructions may be given as a  
7 part of a tax assessment, audit, determination, closing agreement, or  
8 other written communication, provided that such specific written  
9 instructions apply only to the taxpayer addressed or referenced on  
10 such communication. Any specific written instructions by the  
11 department must be clearly identified as such and must inform the  
12 taxpayer that failure to follow the instructions may subject the  
13 taxpayer to the penalties imposed by this subsection. If the  
14 department determines that it is necessary to provide specific  
15 written instructions to a taxpayer that does not comply with the  
16 requirement to file returns or remit payment electronically as  
17 provided in RCW 82.32.080, the specific written instructions must  
18 provide the taxpayer with a minimum of (~~forty-five~~) 45 days to come  
19 into compliance with its electronic filing and/or payment obligations  
20 before the department may impose the penalty authorized in this  
21 subsection.

22 (6) If the department finds that all or any part of a deficiency  
23 resulted from engaging in a disregarded transaction, as described in  
24 RCW 82.32.655(3), the department must assess a penalty of (~~thirty-~~  
25 ~~five~~) 35 percent of the additional tax found to be due as a result  
26 of engaging in a transaction disregarded by the department under RCW  
27 82.32.655(2). The penalty provided in this subsection may be assessed  
28 together with any other applicable penalties provided in this section  
29 on the same tax found to be due, except for the evasion penalty  
30 provided in subsection (7) of this section. The department may not  
31 assess the penalty under this subsection if, before the department  
32 discovers the taxpayer's use of a transaction described under RCW  
33 82.32.655(3), the taxpayer discloses its participation in the  
34 transaction to the department.

35 (7) If the department finds that all or any part of the  
36 deficiency resulted from an intent to evade the tax payable  
37 hereunder, a further penalty of (~~fifty~~) 50 percent of the  
38 additional tax found to be due must be added.

39 (8) The penalties imposed under subsections (1) through (4) of  
40 this section can each be imposed on the same tax found to be due.

1 This subsection does not prohibit or restrict the application of  
2 other penalties authorized by law.

3 (9) The department may not impose the evasion penalty in  
4 combination with the penalty for disregarding specific written  
5 instructions or the penalty provided in subsection (6) of this  
6 section on the same tax found to be due.

7 (10) If an individual substantially underpays an estimated  
8 payment of tax imposed under RCW 82.87.040 pursuant to RCW  
9 82.87.110(3), there is assessed a penalty of five percent of the  
10 amount of the actual tax due for tax imposed under RCW 82.87.040. As  
11 used in this section, "substantially underpaid" means that an  
12 individual's estimated payment for taxes imposed under RCW 82.87.040  
13 was less than 80 percent of the actual tax due, and at least \$1,000.

14 (11) For the purposes of this section, "return" means any  
15 document a person is required by the state of Washington to file to  
16 satisfy or establish a tax or fee obligation that is administered or  
17 collected by the department, and that has a statutorily defined due  
18 date. It also includes the submission of any estimated payment of tax  
19 as provided in RCW 82.87.110(3) and the confirmation of an extension  
20 of the filing due date required under RCW 82.87.110(5).

21 **Sec. 14.** RCW 82.32.105 and 2023 c 374 s 13 are each amended to  
22 read as follows:

23 (1) If the department finds that the payment by a taxpayer of a  
24 tax less than that properly due or the failure of a taxpayer to pay  
25 any tax by the due date was the result of circumstances beyond the  
26 control of the taxpayer, the department must waive or cancel any  
27 penalties imposed under this chapter with respect to such tax.

28 (2) The department must waive or cancel the penalty imposed under  
29 RCW 82.32.090(1) when the circumstances under which the delinquency  
30 occurred do not qualify for waiver or cancellation under subsection  
31 (1) of this section if:

32 (a) The taxpayer requests the waiver for a tax return required to  
33 be filed under RCW 54.28.040, 82.32.045, 82.14B.061, 82.23B.020,  
34 82.29A.050, or 84.33.086; and

35 (b) The taxpayer has timely filed and remitted payment on all tax  
36 returns due for that tax program for a period of 24 months  
37 immediately preceding the period covered by the return for which the  
38 waiver is being requested.



1       (3)(a) The department may waive or cancel the penalty imposed  
2 under RCW 82.32.090(1) when the circumstances under which the  
3 delinquency occurred do not qualify for waiver or cancellation under  
4 subsection (1) of this section if:

5       (i) The taxpayer requests the waiver for a tax return required to  
6 be filed under RCW 82.87.110; and

7       (ii) The taxpayer can show they have made a good faith effort to  
8 timely pay the tax due. The department may prescribe by rule the form  
9 and manner for a taxpayer to prove a good faith effort was made under  
10 this subsection (3)(a).

11       (b) The department may not waive or cancel a penalty under this  
12 subsection (3) if the department has previously waived or canceled a  
13 penalty for the taxpayer under this subsection (3) for any prior  
14 period.

15       (4) The department must waive or cancel interest imposed under  
16 this chapter if:

17       (a) The failure to timely pay the tax was the direct result of  
18 written instructions given the taxpayer by the department; or

19       (b) The extension of a due date for payment of an assessment of  
20 deficiency was not at the request of the taxpayer and was for the  
21 sole convenience of the department.

22       ~~((4))~~ (5) The department must adopt rules for the waiver or  
23 cancellation of penalties and interest imposed by this chapter.

24       NEW SECTION. Sec. 15. Sections 2, 3, and 9 of this act take  
25 effect January 1, 2025.

--- END ---